

**MINUTES OF THE HEARING ON THE PETITION OF MARSH VIEW LLC, 93 CENTRAL STREET**      **HEARING # 09-03**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, September 14, 2009 at 7:30 pm on the petition by Marsh View LLC for approval of a **Comprehensive Permit** on a parcel located at **93 Central Street**, Acton, MA, Parcel 123 on Map G-2 of the Acton Town Atlas. The petitioner proposes four single family dwelling units with one of the units being affordable.

Present at the hearing were Jonathan Wagner, Member; Ken Kozik Acting Chairman; Richard Fallon, Alternate member; Kristin Alexander, Assistant Town Planner, and Cheryl Frazier, Board of Appeals Secretary. Also present was the Petitioner, James D'Agostine, his consultant Isabelle Choate and many abutters to the property.

Ken Kozik opened hearing # 09-03, read the contents of the application file, and asked the petitioner to begin.

James D'Agostine, developer for Marsh View LLC began by saying they plan on building four, single-family Cape Cod style homes with garages underneath located at 93 Central Street. They have been before the Acton Community Housing Corporation (ACHC) many times. One of the homes will be affordable. They have met with several neighbors to discuss the landscaping plan which is the abutters' biggest concern. All the houses will be on individual lots and share one septic system. They are trying to keep with the character of the existing neighborhood by building cape style homes and not colonial style homes. They would like to have a central courtyard with open green space and lawn and are planning to landscape and screen the homes along the road. Mr. D'Agostine distributed five pictures and a map of the site to the Board. He stated he was confident they can address Town staff, board and committee comments by the next Board of Appeals meeting.

Ken Kozik thought it would be helpful to go through all the interdepartmental comments.

Ken Kozik began the discussion with the Fire Department memo and the Fire Chief's concern regarding access and turn around. Mr. D'Agostine said they have already changed the plans by removing the guest parking and adding an open lawn turnaround for emergency vehicles behind Unit #3. The applicant said they still need the fire department to review the changes they have made.

Regarding the Engineering Department memo and their comments, the applicant said they plan on meeting with the Engineering Dept. to submit the changes and address all the issues they have. Ken Kozik asked if all the items would be taken care of by the next hearing. The applicant responded that they would.

Staff was asked to contact the Board of Selectmen to determine if the Design Review Board should comment on Comprehensive Permit applications.

The memo from Dean Charter, Municipal Properties states the landscape plan should be modified to show the size of the proposed plants at the time of planting. That would allow a proper evaluation of the planting scheme. The petitioner agreed to do what is asked of them.

Nancy Tavernier, Chairman of the ACHC, summarized the ACHC memo. She said because these projects are in the Mass Housing program, there was less opportunity for ACHC to drive the process. Under the Mass Housing program, the Monitoring Agent role is assigned to a separate entity to monitor the development; it will not be the ACHC or the Town. The ACHC has less of a role on the whole project but would like to be kept in the loop for the lottery. She would also like to request that special wording in the ZBA decision be written to allow ACHC to review the marketing materials prior to final approval. Furthermore, the ACHC wants to be sure the cost of everything including trash, insurance, and yard care would be covered in those costs. Mr. D'Agostine said he would be open to the ACHC recommendations.

According to the applicant, the issues raised in the Water District memo from Chris Allen are not a problem and will be addressed.

The Transportation Advisory Committee memo recommends changing the address from Central Street to Pine Ridge Road.

The Board of Health (BOH) memo has four issues that need to be addressed. Mr. D'Agostine said they will be submitting the changes to the BOH.

The next memo was from Kristin Alexander, Assistant Town Planner. One of the main issues she had was with the internal pathway. The pathway should connect the units to the guest parking spaces and loop around Parcel A. Another issue was in regards to the FAR. The proposed FAR is 0.30, not 0.24 as stated in the application. The mudrooms and basements were not counted and should have been for all the units. She also had legal document concerns, including the applicant's rights to use and improve Pine Ridge Road. She asked Town Counsel these questions. In his response, Counsel said all legal documents appear to be in order, it appears the applicant has the rights to use Pine Ridge Road, and the applicant does not need permission to make road improvements. However, the applicant may be subject to a legal challenge by the neighbors if the neighbors believe that the applicant's improvements are unreasonable in relation to their rights in Pine Ridge Road. The Board asked to see case law from Counsel in regards to the petitioner making improvements to Pine Ridge Road.

The Conservation Commission needs more information regarding the location of the off-site wetlands. They do not have enough information to base their comments on. They also need to determine whether they meet the requirements of storm water guidelines and have they done an actual survey of the property. The applicant will be addressing all the issues.

A few issues were raised in the memo from Stephen Anderson, Town Counsel. Mr. D'Agostine responded that he has not reviewed the memo but will try to address the comments.

Gwynn Horsburgh of 89 Central Street stated that she owns Pine Ridge Road. She feels this project will impact her quiet private life with people and traffic coming in and out of a large wooded area. She has issues with how the road will be maintained. The developer has promised shrubbery and screening and she would like assurance that the landscape buffer will be maintained. She would like the deck on Unit #1 moved to the opposite end of the house so it does not face her property.

Ken Guditz of 81 Central St. feels the Board needs to look at the site design and in which direction the homes will be facing on the property. He said there is a lack of existing maintenance on the property now so how can they be sure the common land would be maintained. He's also concerned with the wetlands buffer and the Fire Department access.

Maureen Ryan Friend of 40 Tuttle Drive is concerned about the loss of trees and the paving proposed in the wetland buffer zone. She was also upset that they didn't know about the hearing until two weeks prior to the hearing when the project had been discussed for the last few years.

Eric Johnson of 89 Central Street asked if the easement goes all the way back from Central Street. The applicant described the easement location.

John Horan of 101 Central Street stated that Unit # 4 of the project appears to be sitting on 40 % - 50% of the wetlands. He supports the spirit of 40B's and affordable housing but he is against this kind of a project being put on .98 of an acre.

Paul Benedict of 9 Davis Road believes Pine Ridge Road is really not a road but a driveway. He thinks Town Counsel needs to look at the site. Ken assured him that the Assistant Town Planner will speak with Counsel.

Amy Shroeder of 38 Tuttle Drive has septic concerns. Mr. D'Agostine responded that the system will comply with Title 5 requirements.

Deborah Piper of 101 Central Street believes that the public walkway and the removal of trees need to be looked at more closely.

Brenda Cooper of 107 Central Street asked if Septic System means for all four of the units. Each unit will have their own tank but it will be a shared leach field.


Ed Langley of 44 Tuttle Drive has concerns regarding how the project would impact the wetlands on his property, drainage on adjacent properties, and the easement going to his property. Buffers and screening should be proposed to protect the Tuttle Drive neighbors.

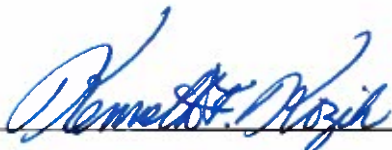
Louise Maher of 42 Tuttle Drive will be doing the site walk on Saturday with Mr. D'Agostine.

The Board will be conducting a site walk on Monday, September 21, 2009 at 8:00 am. They will meet at the 93 Central Street.

Ken Kozik moved to continue the hearing, Richard Fallon seconded the motion. All voted in favor. The hearing was continued to Tuesday, October 20, 2009 at 7:30 pm in Room 126 of the Town Hall.

Respectfully submitted,

  
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Cheryl Frazier  
Secretary to the Board of Appeals

  
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Ken Kozik  
Board of Appeals