



**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, November 16, 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; Scott Mutch, Assistant Town Planner and Cheryl Frazier, Board of Appeals Secretary. Also present was the Petitioner, James D'Agostine, his consultant Isabelle Choate and several abutters to the property.

Ken Kozik re-opened hearing # 09-03, read the new submissions in the application file, and asked the petitioner to begin. Ken said what he'd like to do tonight is review the comments.

Ken asked Scott Mutch to go over the memo from Kristin Alexander of the Planning Department since Kristin could not attend this evening. Scott said there is some question from the applicant's engineer regarding the landscaping and the drought resistant grass, trees and shrubs. The engineer states that drought resistant grasses may not allow sufficient grass cover to be established to prevent erosion. For that reason they are proposing sod which is not drought resistant grass. Ken asked Scott to get together with Dean and clarify this with him.

The next issue in Kristin's memo deals with the setbacks. Surveys of the property need to be completed by a professional land surveyor showing the existing conditions. Mark Donohue, Engineer for the applicant said he will take care of that and stamp all the plans with the land surveyor stamp.

Kristin's remaining question on the landscaping is whether 8' feet high evergreen trees will have lower branches for coverage when they mature. One of the abutters Gwynn Horsburgh would like to get a second opinion on the trees that will be planted. Ken Kozik said if she would like to cover the expense for it she can certainly get the second opinion.

The applicant's engineer letter of 11/2/09 discusses emergency vehicle access under item #1 of the Engineering Department memo. Planning Department staff

continues to defer to the Engineering Department to determine whether the proposal satisfies access/traffic safety concerns.

The legal documents received on 11/9/09 address Planning Department concerns however Town Counsel will need to review all legal documents.

Ken moved on to the November 13<sup>th</sup> Engineering Department memo. Issues #1 through #6 have been addressed. Item #7 has been partially completed, the inverts have been added but the slopes remain unlabeled. The Engineer said he would handle it. Item #8 has been completed. Item #9, the applicant will make efforts to protect the existing subsurface sewage disposal system. One of the abutters present questioned if the septic system under the road needs repairing who would repair the road or pay for the road to be repaired or repaved. That issue needs to be addressed by Counsel and to be sure the proper wording is placed in the decision. Items #10 and 11 are ok. Item #12 Engineering needs street addresses be given. The applicant said they will take care of that. Item #13 has been completed. Item #14 has been completed. Item #15 has been completed. Item # 16 has been completed. Item #17 completed. Item #18 and 19 is ok and has been verified. Item #20 has been completed, label wooded areas. Item # 21 the engineer should show the existing sewage disposal. The applicant has included a note but has not shown it on the plan. They won't know until they excavate. Ken asked Scott to ask the BOH. Item #22 has been completed. Item # 23 parking spaces labeled on the plan have been removed. Item # 24 has been completed. Item # 25 the applicant assures that the maintenance agreement will be incorporated into a homeowner's agreement. Adam J. Costa, Attorney for Gwynn Horsburgh would like added protection or a condition in the decision regarding parking on the easement. Item # 26 the sidewalks have been removed. Item #27 has been completed. Item #28 parking spaces have been removed. There will be tree planting where guest parking used to be. Item #29 has been completed. Item #30 the applicant will pave Pine Ridge Way. Item #31 The utilities will be removed. Item #32 the trench detail has been corrected. Item #33 completed.

Ken read letter for the record from the Board of Selectmen.

Fire Chief Craig's memo stated that after reviewing the plan for 93 Central Street he concurs with the Engineering Department. He's concerned with access, turning radii and ability of apparatus to get to the rear unit #3. He does not want to have apparatus, in an emergency situation, making small backing up and turning maneuvers. Mr. D'Agostine said he has spoken with Chief Craig and asked Chief him what he wants. Chief Craig and he agreed to 12 feet for the turning radius and the Chief wants to see it on the plan.

Maureen Ryan-Friend, abutter on 40 Tuttle Drive had a question regarding the snow removal and how they would determine how much snow would be plowed and has concerns about the snow being plowed onto their property. Ken Kozik said he may ask the Fire Chief to address the issue of snow removal.

One abutter present was asking a question for her neighbor who could not be present this evening They live on Tuttle Drive and would like to have a fence between unit #3 and their property.

John Horn of 101 Central Street said with all the issues this development is going to dramatically alter the existing neighborhood and their property. The rest of the neighborhood is earmarked for 40B projects. Ken told the abutter their hands are tied in regards to this kind of project, he commends the Planning Board and the BOS for trying to keep these projects small. If they want change they need to go before Town Meeting to propose changing.

Ed Langley 44 Tuttle Drive thinks when the Board is putting conditions on the decision they need to remember that most of the trees on the site will be gone and the site will not look like it does now.

Adam Costa, Attorney for Wynn Horsberg has a concern with slippery slope. They don't think this is appropriate for this site. One question is with the Pro forma and if the Board has the intent to review it. Ken said they do with Town Staff. Attorney Costa also had a problem with the overburdening of the easement. What currently exists is different than what is proposed. The proposal is not to repave the existing but to extend it. Ken Kozik told the Attorney for Gwynn to draft what his proposal and the Board will bring it Town Counsel.

Ken moved to continue the hearing to **Tuesday, December 15<sup>th</sup>** in Room 126 of Town Hall at 7:30 PM.

Respectfully submitted,

  
Cheryl Frazier  
Secretary to the Board of Appeals

  
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Ken Kozik  
Chairman of the Board of Appeals