

## PLANNING BOARD • Town of Acton

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ACTON PLANNING BOARD

Minutes of Meeting

May 14, 1990



Planning Board members in attendance: Chairman Mary Giorgio, Greg Niemyski, David Hill, Doug Carnahan and Jim Lee

Planning Staff in attendance: Town Planner Roland Bartl, Assistant Town Planner Tim Smith, Planning Board Secretary Donna Jacobs.

The meeting was called to order at 7:30 PM by Mary Giorgio.

### I. General Business

The Board reviewed the minutes of the March 12, 1990 Planning Board Meeting and made changes as appropriate. Greg Niemyski moved to approve the minutes as amended. His motion was seconded by David Hill and carried unanimously.

### II. Highridge Subdivision Plan - Reconsideration of Endorsement

Mary Giorgio moved to reconsider the Board's decision of May 7, 1990 not to endorse the Highridge Subdivision Plan. The motion was seconded by Greg Niemyski and carried unanimously.

Greg Niemyski moved to endorse the subdivision plan, and the motion was seconded by David Hill. Discussion on the motion began with Jim Lee who asked if the Board has identified the previously unknown lots. Roland Bartl replied that those lots have been identified on the ANR plan which was filed last Friday. Greg Niemyski asked if the covenants and plans have been reviewed and whether they comply with the requirements. Roland Bartl responded that he has reviewed the covenants and found them to be as requested by the Board. The ANR plan complies with the filing requirements and has been signed. The Board voted unanimously in favor of endorsing the plan.

### I. General Business

The Board reviewed the minutes of April 23, 1990, April 30, 1990 and May 7, 1990 and changes them where appropriate. Greg Niemyski moved

to approve the minutes of those meetings as amended by the Board this evening. David Hill seconded his motion which carried unanimously.

### III. Discussion on the Use of Town Counsel

The Board reviewed both the memo received from F. Dore' Hunter regarding the legal budget and the Town Policy on Obtaining Legal Advice. David Hill suggested that since the Board of Selectmen appoint Town Counsel on an annual basis, the Planning Board should write a letter to the Selectmen asking if they should consider putting the contract out for competitive bid at next renewal. Mary Giorgio suggested that the Board of Selectmen should solicit comments from the various Town boards that utilize Counsel's services prior to their annual appointment. Greg Niemyski questioned whether Roland has to get the Town Manager's OK before consulting Town Counsel. Jim Lee questioned the use of "controllable fixed cost" in the memo and asked whether that indicates that Board's should have reasonable knowledge of the law and rules and regulations so as to write decisions without using Counsel. Roland replied that Boards are expected to have a working knowledge, but it also means that Boards should utilize Counsel before issuing the decision where appropriate. Greg Niemyski asked if this policy has been reviewed for Town staff. Roland told Greg that it has been covered at staff meetings. Greg suggested that Don Johnson come before the Board and explain how the Board should determine what's worthy of defense for good planning practices and what is not. Mary Giorgio agreed that the Board needs to have the Town Manager meet with them. Mary went on to state that the Board has always had Town Counsel review potential lawsuit issues. Mary feels that the Board's use of Town Counsel has been normal and perhaps the Board needs to know how much of the total budget for Counsel was used by the Board last year. Jim Lee stated that he read the memo to state that the Board shouldn't use Town Counsel as much. Roland Bartl said that the memo is a reminder of existing policy and he agrees that it would be a good idea to have a performance evaluation prior to contract award each year. The Board agreed to send a letter to Don Johnson and the Board of Selectmen concerning Town Counsel which will be drafted by David Hill and Greg Niemyski.

### V. Hammerhead Lot Special Permit - Public Hearing/Decision Oakwood Rd.

Chairman Mary Giorgio opened the public hearing at 9 PM by reading the notice of the public hearing as it appeared in the Beacon. Mary Giorgio stated that the hearing is being held due to a technical deficiency in the previous hearing.

Because of this, Mary said she would open the hearing to new questions from the Board first, then allow new questions and comments from the audience. The Planning Board had no new questions for the applicant. Mr. Gunther Imke of 17 Oakwood stated for the record that the lack of neighborhood representation at the hearing was not due to disinterest, merely due to schedule conflicts. Greg Niemyski reviewed the comments received from the abutters. In his letter to the Board, Mr. John

Folsom raised the issue of the 100 and 500 yr. floodplains located on the lot; expressed concern about possible deterioration to the wetlands; and raised the issue of increasing tax liability for the existing house due to its increase in lot size. The Board advised Mr. Folsom that they did not perceive the proposal as a possible deterioration of the wetlands and suggested that Mr. Folsom address this issue to the Conservation Commission. They directed him to consult the Assessors' office with his concern about increased tax liability.

John Folsom suggested to the Board that approval of this special permit would be contrary to the Master Plan Goals and Objectives calling for preservation and protection of the Town's natural resources which were adopted at the April 1990 Town Meeting. David Hill informed Mr. Folsom that a landowner has the legal right to develop his land to the fullest amount allowed under the Bylaw. By going with the single hammerhead lot configuration, the Town gains the most because the rest of the land will remain open space in perpetuity. Mary Giorgio explained that the Board has no legally defensible way to prevent what Mr. DeVincent has proposed.

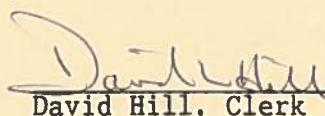
John Folsom also questioned the four foot strip of land asking if septic breakout could happen there. David Hill replied that there is greater danger of septic breakout from the existing houses due to the age of their septic systems.

Greg Niemyski informed Mr. Folsom that the Planning Board has recommended that the Zoning Bylaw be amended to prevent irregular shaped lots.

Hearing no further questions or comments, Mary Giorgio closed the hearing at 9:10 PM.

Mary Giorgio explained that due to the technical flaw in the last hearing procedure, the Board has drafted a decision for discussion and vote tonight. Doug Carnahan moved to issue the decision as drafted. Jim Lee seconded the motion. Discussion on the motion included the recommendation that Quint Brathwaite's name be deleted from the first page as he was not in attendance this evening. Doug and Jim accepted this amendment as part of their motion. The motion was approved by unanimous vote.

David Hill moved to adjourn the meeting at 9:20 PM, Motion was seconded by Doug Carnahan and carried unanimously.

  
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David Hill, Clerk

DH/dmj