



## Acton Zoning Board of Appeal

### Minutes of Meeting

July 19, 2016

Acton Town Hall

Room 9

- I. Zoning Board of Appeal members in attendance: Jonathan Wagner, Chairman; Ken Kozick, and Adam Hoffman. Staff present: Roland Bartl; Town Planner, Kristen Guichard, Assistant Town Planner; and Kimberly Bicker, Board of Appeals Secretary.

#### II. 248 High Street – Comprehensive Permit Public Hearing

Mr. Wagner opened the public hearing at 7:35PM. He explained the public hearing process. Attorney Levine provided an overview of the 40B application. The applicant, Joe Levine, introduced himself and presented the proposed development. The development will consist of eight single family dwelling units on fee simple lots; two of which will be affordable. Mr. Levine explains the general layout of the lots, and the orientation of the building facade to the street.

The Board members asked the applicant questions:

Mr. Kozick questions plans for the sidewalk – Mr. Levine clarified that the existing sidewalk along High Street will remain, the applicant proposed to grant an easement to the Town. The applicant does not propose to construct a sidewalk on Adeline Way.

Mr. Kozick asked about the condition of the existing house. Mr. Joe Levine explained the existing house is in poor condition with black mold throughout and rodents living in the premises. He noted that the total property was a loss and has been vacant for 2 years.

Attorney Levine explained the previous owner sought to demolish the building under the Town's local demolition delay bylaw. He noted the structure was not on the local Cultural Resource List but was on the Massachusetts Inventory list. The demolition delay hold ends on September 9, 2016. The Applicant is not asking for a waiver to demolish the structure earlier than this time period.

Mr. Levine noted that no one has approached the Applicant about purchasing the house on the property.

Mr. Kozick asks what is behind the property – Mr. Levine explained it is about 7 acres of Town owned open land to Dunham lane.

Mr. Wagner requested staff reach out to the Tree Warden for comments on the Landscape Plan, for a written response from Tom Tidman, Natural Resource Director and clarification that the Acton Water District had no further comments.

Kristen explained that Tom Tidman, the Director of Conservation verbally told Planning staff that there were no significant issues with the development and it was not in their jurisdiction.

Mr. Levine noted the DRB did not contact the Applicant to invite them to a meeting, so the Applicant reached out to the DRB several times. Attorney Levine explained that they were never contacted by the DRB until the day before the hearing, and then received a negative letter.

Ms. Adachi, Vice Chair of BOS noted she attended the DRB meeting while they conducted their review at which they did not have all the information or plans at hand. Ms. Adachi stated the Board of Selectmen was in favor of the project.

Nancy Tavernier of the Acton Community Housing Corporation (ACHC), explained the ACHC's charge. She stated the Town is below their 10% affordable housing goal and that the ACHC is in support of this project. She noted they met with some of the abutters at a public information session, and they did not seem to be in opposition. She encouraged the Board to approve this complex.

Mr. Hoffman asked general questions about MGL Chapter 40B and the affordability restrictions. Ms. Tavernier explained the marketing, lottery and affordability requirements for household income and size.

Marion Matson stated she was happy to see that Joe Levine was the developer on this project but was concerned with the increase in traffic the project would bring.

The Board questioned if a traffic study was warranted.

Mr. Bartl stated that under the Town's Subdivision Rules and Regulations this project would not trigger a traffic study.

Victoria Beyer of the Historical Commission clarified that they submitted an inventory form for the existing house on the property to Massachusetts Historical Commission and explained the historical significance of the structure.

Mr. Wagner and Mr. Kozik explained the BOA's role and limitations when reviewing and deciding over a comprehensive permit application.

Terra Fredericks requested the Board push the hearing off in order to obtain a financial analysis for project feasibility in order to reduce the number of units and she expressed concern about the project receiving Massachusetts Historical Commission's review.

Don Johnson expressed his dislike of 40Bs but stated he was pleased that Mr. Levine was the developer. He noted the density would be 3-4 times the density of the existing area and a reduction would make it

more attractive to the community. He also noted the applicant reached out to him to discuss screening options and stressed his desire to screen the project from his property view.

Mr. Hoffman asked what he would like to see for screening. Mr. Johnson stated they have woods on 4 sides, they would like to see more landscaping and trees that would block their view of the housing development. Mr. Wagner suggested that they put together a memo to add to their decision – Joe and Don stated they would work it out privately.

Board Members asked if the Applicant had considered a smaller unit count.

Joe Levine stated a reduction in the number of units would make the project uneconomic.

The Board took a 5 Minute break at 9:00PM and resumed at 9:05PM.

Ms. Guichard provided clarification for this project and the involvement of Massachusetts Historical Commission. She noted that if MHC has a review role in this project, it would be after the 40B permit is issued locally by the Town. She stated that once the Applicant has their local permit, they have to then gain final approval by DHCD. If DHCD believes they should file an Environmental Notification Form with MEPA they would do so after they issue their final approval.

#### **Departmental Recommendations**

The Board reviewed the Fire Department, Engineering Department, Planning Department, and Water Supply District Comments. Planning staff confirmed that all concerns stated in the memos could be conditioned in a decision.

Mr. Kozick asked the applicant if they had conducted a financial analysis. Mr. Levine submitted to the board their financial analysis which was entered into the record. He noted that DHCD typically won't approve a project that is not economically viable because they do not want to fund a failed project.

The Board scheduled a site visit with the Applicant on the property for August 1<sup>st</sup> at 6:00pm.

The Applicant and the Board agreed to continue the hearing to August 1st at 8:30pm at the Town Hall or Memorial Library.

Ken Kozick moved to adjourn the meeting at 9:48pm, all in favor.