

Minutes Meeting of June 30, 2004 – Bulldog Realty, Fire Chief, Groton Gardens

Members Present: Stuart Schulman, Bob Cadle, Jay Prager, Mark Mulligan, Chase Duffy

The Chairman reconvened the Bulldog Realty hearing.

The BI was present and noted that the applicant needs a variance from acreage and frontage.

The Chairman noted that they got a permit to tear down the building.

The BI said that he thought they were going to tear down the building right from the start. He said that they have been speaking for 1.5 years and the discussion was always about tearing down the entire structure. He said that they came back with plans after the demo permit was issued.

Mr. Mulligan asked whether there is any increase from what was asked before the building was razed.

Discussion ensued regarding what was intended and what happened.

Atty. Connolly said that they are asking to amend the special permit and keep the variance already granted. He said that his clients will go forward with the footprint approved by the ZBA and PB. He said they won't have to go before the PB again if the same site plan is used and the portion of the building originally slated to remain is designed as shown in the original plan.

Mr. Cadle noted that if they stay with the special permit plans they still have parking and wetland issues.

Atty. Connelly said his clients will keep what the PB wanted as shown in the variance plans.

Atty. Manugian said that parking and wetlands issues caused the plan to be pulled forward. She said that the new building will be constructed per those plans. She stressed that they will not move the footprint towards the back of the property. She said that the most recent plan was wrong and shouldn't have been submitted. She said that she can show copies of what they wanted vs. what was submitted.

The Chairman noted further confusion.

Mr. Prager said that he is confused about the situation and noted that Atty. Manugian submitted a letter stating that the demolition was accidental.

Atty. Manugian said that at the last meeting she was hearing that board was misled and stressed that that was never the intent. She said that there has been much miscommunication.

The Chairman said that if the ZBA grants relief he wants all new board permits obtained. He said that he is really confused and doesn't want to speak for other boards.

Mrs. Duffy said that she wants to see exactly what the applicant plans to do.

The BI suggested that the Board needs to vote only on whether a variance is needed.

Discussion ensued re: how to proceed and the density here vs. a 40b.

The Chairman said that he wants a good and real plan and felt they have nothing now.

Mr. Prager wanted clarification regarding what is happening.

Discussion ensued regarding what various boards wanted.

Mr. Prager asked for clarification regarding the different plans.

The Applicants noted that the plan dated July 21, 2003 is the plan to be presented.

The Chairman said that if the applicant had asked for a variance to knock down the building and put up five units, it would have been denied. He said that the Board is now being asked to fix this mistake.

Mrs. Duffy said that she liked the existing building and noted that she would not have granted a demolition to begin with. She said that the Board was told that a portion of the building was to remain standing and incorporated into the new project.

The Chairman said that he does not like how it feels and said that despite the legal arguments, the Board is not required to grant a special permit. He also noted that he thinks the BI is correct that variance is required and stressed that this is one heck of a variance.

Atty. Connolly said that he wants to make some points, noting that he looked up some law. He said that he thought the BI would be also be looking up some law. He provided an appeals court decision and said that precedent is not a basis for denial. He said that he is hearing comments regarding a better use for lot. He said that a demo permit was issued and the building demolished. He said that after the building was razed, the PB went through a process whereby the permit was signed off by the PB and the Erosion Control Officer. He said the permit was signed off by everyone until it got back to the BI.

The Chairman said that no cases are exactly on point.

Atty. Connolly said that some cases are regarding abandonment vs. razing. He said that the Court danced and did not want to make decision about the case. He stressed that nothing really changes if the special permit is amended. He felt that to require a variance is a kiss of death when buildings are already razed. He then cited a case of demolition that is under appeal.

Mr. Prager said that the court cases apply to single and two family dwellings rather than multi-family.

The Chairman said that the Board was presented with a renovation and improvement plan.

Mrs. Duffy said that there were architectural values that should have been preserved.

The Chairman asked for a 15 minutes recess.

The Fire Chief noted that there are computer standards regarding fire truck access. He said that all approach and departure angles should be within town standards and noted that there is 10% maximum grade limit. He said that there is basic verbiage to provide adequate turnaround space for each project. He stressed that it is a call department with no full time personnel.

The Board requested a one page list of bullet items.

The Chief suggested talking to the PB re: fire regulations for site plan review.

The Chairman reconvened the Bulldog Realty hearing.

Mr. Sullivan asked whether the applicant can replace the floor to ceiling windows.

Atty. Connolly said that another set of plans will be submitted like the first special permit application.

Mr. Prager said that those plans don't coincide with the July plans.

Atty. Connolly said that the new section would look like that portion that they were going to leave. He said that they would get the exact PB plan and reduce it and submit it.

The Chairman said that he would not grant a variance to raze the building and asked how he could approve a permit now when he would not have approved one then. He said that he still feels the same way.

Atty. Connolly said that the question could be posed differently. He said that the Board has voted for something that could be amended and thus the structure would still be built. He said that it would be a clarification rather than a modification.

The Chairman said that the Board needs to determine whether a variance is needed.

Mrs. Duffy said that the circumstances governing a special permit don't exist any more.

Mr. Mulligan said that the BI was correct that he could not issue a building permit. He said that he would like to give them a remedy so the project can move forward in some way. He said that it is the same project even if it is all new construction.

Mr. Prager said the he wants to give them the benefit of the doubt.

Mr. Cadle said that he is of the same middle of the road opinion. He said that the Board should deny the clarification/amendment request and should require a variance, and wonders whether the Board should allow 5 units on 1/3 acre. He suggested that this would require a use variance that the Board can't grant.

Discussion ensued regarding the variance route.

The Chairman said that the new plans won't change his mind.

Discussion ensued regarding whether variance requirements would squash project.

Atty. Connolly said that he was told that there were no financial savings by razing the building.

Mr. Prager felt that the Board can only amend the special permit and should give the applicant a sense of how to proceed.

Discussion ensued regarding how the Board is going to proceed.

Mr. Mulligan said that the only recourse is to amend the existing special permit so that the applicant can go forward with no building on the site now.

Mrs. Duffy said that she is not sure she is willing to support the massiveness of the building.

The hearing was continued to 7/21/04 at 9 PM.

A motion was made, seconded and passed unanimously.

The Meeting adjourned at 9:15 pm.