

**Minutes from Meeting of September 1, 2004** – Oak Ridge, Groton Gardens

Members Present: Stuart Schulman, Shaun Sullivan, Mark Mulligan, Chase Duffy, Mark Bobrowski

The Chairman reconvened the Oak Ridge hearing and read several letters into the record: the first group from Littleton Boards, Police, etc. and from the State.

Discussion ensued regarding who maintains the site distance issue, ie the cutting of trees when the egress is in Littleton.

Atty. Deschenes felt that there are no tree cutting issues because the egress is in Littleton and there are better site lines. He said that they would make it a part of the condo association that they maintain the site line. He suggested requiring a bond if necessary.

Atty. Bobrowski said that the parking area needs to be swept and the ZBA needs to get regular reports that required work has been completed, such as site maintenance. He said that there is much work for the ZBA even after the permits are granted, noting that the applicant will be back again and again.

Mrs. Collette suggested that an easement be provided for drainage system maintenance and site line trimming such that the town could go in and perform the required work and charge condo owners.

Mrs. McEvoy asked whether this would be happening on the Hyder property or the Graham Moses property.

Atty. Deschenes said that they would just provide a site line easement over the Hyder/Mattbob property.

Mr. McEvoy asked whether that would be stipulated.

Discussion ensued regarding easements - of note: they run forever regardless of whether the property is transferred.

Mrs. McEvoy said that if site line clearing happens right by the vernal pool then they do need more Con. Comm. input and a notice of intent.

Atty. Bobrowski said that if the cutting is within 100 ft. of the wetlands, then the applicant needs to go back to the Con. Comm.

Discussion ensued regarding vernal pool outlines.

Atty. Deschenes said that if they have to trim within 100 ft of wetlands they will go to the Con. Comm. and noted that they need to see the Water Department for water line installation. He said that the water line is coming down Rt. 119 for a long way.

Discussion ensued regarding how to get responses from fire and police in town in a timely fashion.

Atty. Deschenes said that he met with the Fire Chief six months ago and his concern was whether there would be any alarm system. He said that there was no focus on a single entrance.

Mrs. Person asked the applicant to get a letter from the Fire Chief.

Atty. Deschenes said that he has met with the Chief and felt there was no need for any more feedback from him.

Mrs. Collette submitted a memo from an informal earth removal committee meeting, noting that the clearing delineation line is very important. She said that an orange snow fence is a good tool. She said that there should be no erosion off site onto abutting properties or into the public way. She noted that dust control can be a major nuisance during construction and said that the consultanting engineering can manage construction impact at the expense of the applicant.

Mr. Tierney said that 90% requirements in the Con. Comm. jurisdiction have been met and noted that JNEI said that it is a relatively balanced site.

Atty. Deschenes said that they have provided an erosion control plan per a Con. Comm. request. He said that the storm water management is in compliance and stressed that they can't make a mess of a public way. He felt that they have addressed 90% of the issues and said that they do not want to hire yet another engineer.

Atty. Bobrowski said that the earth removal committee should give their best guess and should give the Board a specific waiver list. He said that the ZBA should address each waiver request.

Mrs. Collette said that the earth removal committee and the Con. Comm. do work together but noted that earth removal has jurisdiction over the site. She said that there are a lot of issues re: erosion onto public way with developments and stressed that this is a serious problem. She said that it is good construction practice to use the best management process.

Atty. Deschenes noted that he has an updated waiver list that he will submit.

Chief Bosselait said that he spoke with the applicant some time back and since then the access road has changed. He said that he has had email communication with the Littleton Fire Chief, who has some concerns. He said that Groton would initially service the site because of the location of the units but has noted that they have mutual aide with Littleton, Westford, etc. He said that the angles

of entrance and departure are of concern and seem steep.

Mr. Sullivan said that the slopes are right at the allowed limit.

Chief Bosselait said that if no salt is used due to wetlands, it could be problematic for big truck egress. He stressed that he wants sprinklers and noted that the town has adopted a requirement for four units and above. He said that a radio master box provides wireless communication for units and could have manual pull chains for extra emergency access. He said that one entrance is little access for 44 units and stressed that if traffic is tangled up on Rt. 119, there would be no way to get emergency units in.

The Chairman asked whether any other projects have one access for this many units.

The Planning Board noted that there is not even one access for Deer Haven, which has 28 units.

Chief Bosselait noted that the more people, the bigger chance of problems. He asked about access to the back of buildings for a rear fire fighters entrance. He noted that there seem to be more bedrooms to the rear.

Mrs. Duffy asked about fire truck turn around if there is a blockage on any part of the project turnaround.

Chief Bosselait said that a truck can turn around, back up or use the grass area when there is no snow. He said that a truck can back up for quite a distance.

Atty. Deschenes said that they are trying to discourage on street parking.

Chief Bosselait suggested marking one side no parking on the street in the event of a party. He said that with a lot of units, public safety is a big concern.

Atty. Bobrowski asked about sprinklers.

Atty. Deschenes said they have no plans to install.

Chief Bosselait said that the town adopted a by-law in 1991ish and noted that the Board can't waive a state reg.

Atty. Deschnes said that he would look into it that but thinks they fall below the requirement.

The Building Inspector thinks that a sprinkler system should be installed at 4 units per building.

Mrs. Duffy said that it could save lives because of the single entrance.

Mr. Sullivan said that a steep grade with no salt could create a lot of problems in winter, particularly with the single access.

Chief Bosselait said that he wants to make sure that the engineering figures are set. He noted that traffic engineers have a computer model to determine models.

The Chairman said that he needs to know what figures the engineer will need.

Mrs. Lathrop asked why this is missing at this late date.

Atty. Deschenes said that JNEI has okayed the slopes as on the high end side but said he will have the engineer re-look.

The Chairman asked whether fire personnel could access the rear of the buildings.

Atty. Deschenes said that they have competing interests because of the wetlands but understands that fire personnel need clear access around the buildings.

Chief Bosselait said that MGL 148 chapter 26 I was adopted in Groton in 1996, requiring sprinklers.

Mrs. Perkins, said that the PB allows a road up to 1000 ft with no more than 10 dwelling units for a subdivision.

Atty. Bobrowski said that this is not strictly applicable.

The Chairman noted concern with a single access.

Atty. Deschenes said that he thinks there is only 600 feet from the road to the split. He said that there is no other access available, despite all attempts. He said that his client has worked hard to protect the wetlands/vernal pool and stressed that there is no wriggle room. He said that they are trying to minimize the road length and a sprinkle system adds another layer of protection, as well as the wireless box.

Chief Bosselait noted concerned about the hydrant feed. He said that they need a large enough water supply for both hydrants and sprinklers. He said they need to hydrological testing to figure out how to supply to all buildings.

Mrs. Collette said that both town hall and lost lake fire had to test system to determine whether system could support sprinklers, etc. She said she was not sure if this is a building code issue or a ZBA condition issue.

Mrs. Lathrop noted that her biggest concern is safety. She said that she won't see the project from her home and noted that the Sunset Road access is very wide. She said that this is more narrow and age restricted and there will be a need to pull out fast, etc.

Chief Bosselait said that Littleton could have a concern about an increase in accidents.

Mrs. Lathrop said that when five houses were going in she was not concerned, but since that developer determined that the egress was unsafe for five and now 44 are going in, she is worried.

The Chairman felt that driver response and egress time won't suppress the project.

Mr. Sullivan expressed concern about the two acres in Littleton.

The Chairman suggesting conditioning that those parcels can't be taken out.

Atty. Bobrowski said that they would need to return to Mass Housing for a change order and noted that this can be discussed in deliberation.

Mrs. McEvoy said that some buildings could be moved onto the Littleton property and then the detention basin could be relocated.

Atty. Bobrowski said that they would need to go before the Littleton ZBA in order to do that.

Mattbob said that would not happen.

Discussion ensued what could happen in order to change the plan in future years.

Atty. Bobrowski said that Mattbob could not chop off the parcel without ZBA/Mass Housing permission.

Mike Jacobs, NHJ assoc., said he was trying to give the Board a feel for what is happening regarding the finances but noted that it is not a specific science. He said that it is a judgment call whether acquisition costs are covered. He said that MHA looks at the entire picture. He said that they quote \$115 per sq. ft. He said that some soft costs are low but all-in-all the figures are reasonable. He said that \$900 per unit for heating during construction is too high and said the insurance costs are too high by far. He said that the Board wants to make sure there is no double dipping when the applicant is getting construction fees and management fees. He said that the overhead for the general contractor should be reviewed. He also said that they overestimated sales prices in a big way and noted that usually developers underestimate sales prices. He presented an adjusted pro forma and said the profit could go over 20%, but again stressed that it is not an exact science. He said that the range of profit ranges from 16 to 20% without sprinklers.

The Chairman asked about the affordable units, noting that they are lower than he figured. He asked how that could affect profit.

Mr. Jacobs said that some figures offset and make the profit higher even with the lower cost of some units.

Discussion ensued regarding how to figure how to price affordable units.

Mrs. Duffy asked why the affordable units are smaller.

Atty. Deschenes said that the State allows flexibility in size for the affordable units.

Atty. Bobrowski said that whether pricing for a family of 3 vs. 4 or 70% vs. 80% of medium income basis affects prices largely.

The Chairman noted disappointed that the affordable units are smaller.

Atty. Deschenes said that there is no guarantee that his clients would make a 20% profit. He said that the only guarantee is that they can't make more than 20%. He noted that the affordable units are distributed throughout the project.

Of note: market rate is what the market will bear but an audit at the end is done to ensure that developer makes no more than 20% profit.

Mr. Jacobs said that all units have to look the same on the outside.

Mr. McEvoy asked whether the pro forma review is town concentric or developer concentric.

Mr. Jacobs said that it is objective.

The Chairman noted that the town hired Mr. Jacobs.

Mr. McEvoy submitted another letter and asked for both sides to be analyzed.

The Chairman said that they could go ahead with a private analysis.

Mr. Jacobs said that this pro forma review is a secondary tool and stressed that safety, etc. is the primary tool. He said that there are some cushions here but noted that if the project goes below 15% profit, it becomes shaky.

Discussion ensued regarding whether water is figured in pro forma.

Mrs. McEvoy asked whether water would be coming from Sunset Rd. and whether the applicant was locked in to this.

Mr. Jacobs said that nothing was locked in and was just using figures to do the financial analysis.

The Chairman asked about BOH requirements.

Mr. Tierney said that the septic system plan was 80% done.

Mr. Sullivan asked how to test out of season.

Mr. Field said that it was not out of season and testing can be done all year round.

Agenda for the next meeting: earth removal waivers, fire chief issues, status on BOH.

Mrs. McEvoy asked whether the Con. Comm. could issue waivers and what they would entail. She also asked whether there were any Zone 2 issues for Littleton.

The Chairman said he spoke to Savis of Littleton, who said there were no issues.

Mr. Field said that he, too, would talk to Savis.

The Chairman asked about any other possible Con. Comm. issues.

Mrs. McEvoy said that detention basin 3 is within the 100 ft. buffer and said she thinks some grading would be happening within the 100 ft. buffer. She said that they have only the State's order of condition and said that the ZBA should require a notice of intent with the Con. Comm. for their recommendations.

Atty. Bobrowski said that they have a letter from the Con. Comm. regarding State regs. He said that the town regs. are stricter. He said that like with earth removal, the Board could ask for them to respond to local Con. Comm. regs. He said that can't just ask for a blanket waiver.

The Chairman asked whether this is reasonable.

Atty. Bobrowski said that it was, but there would have to be itemization.

The Chairman read memos into the record.

The hearing was continued to 9/15/04 at 7 pm.

Discussion ensued regarding a possible work session for Oak Ridge.

The Chairman reconvened the Groton Gardens hearing.

Atty. Bobrowski brought the Board up to date regarding work sessions. He said that 600 grand is available for the NEBS relocation, the new Mill St., traffic light, sewer, etc. He said that with sewer, it is a pay per unit cost and is 3 times what the applicant thought, for sewer ppa. He said that the applicant wanted to keep the # of bedrooms at 96 and units to 44. He noted that all affordable units will be two bedrooms.

Mr. Jacobs said that his report was done two months ago when there were all two bedrooms so he may need to redo the math because it is a different project. He said that there is not too much profit, that this is a very skinny deal. He said that these are high cost transactions and no appraisals were done regarding whether the applicant paid too much for acquisition. He said that an appraisal is not based on 38 grand for a unit but what they could have done by right on the property and whether it supports the value. He said that the retail building lowers construction costs and figuring the cost for the number of family members (3 vs. 4) figures into costs also. He stressed that this is a skinny project.

Discussion ensued regarding the ramifications of a skinny project and how to adjust cost.

The chairman expressed concern about this and the potential of cutting corners or whether the developer could and/or would walk away.

Atty. Bobrowski said that the BOS voted to support what he put forth as the summary tonight.

Mrs. Collette asked for the earth removal memo to be put into the record.

Atty. Deschenes said that he has composed two additional waivers, including a waiver from the wetlands by-law.

Atty. Bobrowski said that he doesn't think there should be a total by-law waiver but should be addressed by section.

Discussion ensued regarding what needs to happen re: closing public hearing, sewer capacity, etc.

Atty. Bobrowski said that he thinks the hearing is very closable. For record this is a very unusual project because it mixes a commercial and residential use. Took because assumed there would be no appeal. If there is an appeal there are risks associated. Could be separated into a 40a and 40b respectively b/c 40a allowed there.

Of note: the applicant is not asking for a waiver to allow a drive through restaurant.

Mr. Sullivan asked about the waiver request.

Atty. Bobrowski said that waivers will be completed in deliberation.

The Board moved to close the public hearing. The motion was seconded and passed unanimously.

The meeting adjourned at 10:15 pm.