

ZBA Minutes October 21, 2008 – Oakridge

Members Present: Robert Cadle, Chase Duffy, Cynthia Maxwell, Alison Manugian, Harris McWade

Chairman Cadle reconvened the Oakridge hearing and gave a brief history, noting that the applicant is asking for the removal of the 55+ age restriction. He said that the application was originally for 44 units and now the project is for 36 units. He said the Board determined that the change was substantial and held a public hearing that has been continued to this date. He said he wants to remind everyone of the standard that this board has to apply, that only changes affected by this request should be considered and the only thing at issue in this case is the 55+ age restriction and any portions of the project that may be affected thereby. He said there will be an increase in the wastewater requiring treatment so that the septic design could be an issue. He said he wants to keep to those types of issues and asked the audience to do so also. He stressed that anything brought up needs to have a reason as to how it affects the issue at hand.

Atty Deschenes, agent of applicant, said that he agreed to keep to the matter at hand and agrees that some issues relate directly to the request to remove the 55+ age restriction. He said he wants to address the septic issue immediately, noting that the Title V requirements are no different. He said that in the original decision, the primary system was relocated and the secondary was placed in the “lollipop” in the driveway. He said the requirements to meet Title V don’t change, noting that the system will be a little bigger but stressed that the site can accommodate it. He said that they have not submitted a septic plan yet, partially due to the appeal, but noted that they will meet the requirements of the permit. He said that the same is true with water, noting that the project may use more water but they will have to submit a final design and usage plan to the Water Department. He said that that won’t change. He said that the BOS submitted a letter with suggestions, many of which are on point, addressing the need for additional parking, a school bus waiting area, etc. He said that they have a sidewalk going out to the main road and have plenty of space for a school bus waiting area and have more than enough space for a nice play area. He said that the play area could be on the reserve septic system and also where one building has been removed. He noted that although the change could have an impact on traffic, he doesn’t see how but that the Board has a right to ask. He said that by lifting the restriction, the Board is not prohibiting 55+ people from

living there, noting that there are still all two bedroom units that are available for over 55+ should they want to live.

Chairman Cadle noted that it would be a very different type of housing if children are there, noting that some older people want adult only housing.

Atty. Deschene said that this is true, but it goes either way, with some wanting only 55+ residents and others wanting younger people around. He said that the market has changed, noting that what was once a boon to have 55+ units because there was not enough housing is now a marketing detraction. He said that towns were attracted to this because this restriction doesn't add as many kids to the school system. He said that there is now a glut of 55+ housing, and if built as such, they couldn't sell the units. He said that they cannot find qualified buyers age 55+ for affordable units, and this is why they are seeking to make this change.

Chairman Cadle said that this request is based on the premise that if the project is built under the current permit, in this market, it wouldn't be economically viable.

Atty. Deschenes said that that is correct, and noted that they lost three years in appeals. He said that he doesn't think there will be a great a demand for families with children even if the age restriction is reduced. He also noted that the BOS mentioned vernal pools and deed restrictions limiting the units to two bedrooms, saying that they can address and work with these requests. He noted that the Water Department is present and stressed that they will work with the department. He said that the engineering review has some issues drawn in that don't have anything to do with the 55+ amendment, noting that they have addressed the original plans and moved the secondary septic system to the center of the driveway area. He said that there is no change to the drainage or to the plan other than what was conditioned in the original permit. He said that some engineering is part of the final push when building permits are being obtained, noting that it is okay to deal with at this point, but not totally germane.

Chairman Cadle said that he wants to save some of the fine detail engineering issues for a separate meeting from this request for waiver.

Atty. Deschenes said that there is a question as to whether they are subject to MESA review. He said that they have a valid order of conditions from the

Con. Com, noting that they are not changing anything related to that order of conditions with the 55+ restriction removal. He said that this site is located within an endangered species habitat, which is correct, but this project was permitted prior to the 2006 ruling. He said that this project was permitted in 2005 and there are specific milestones under which they don't have to file, one of which is because they already have a valid order of conditions. He said that they also already have a comprehensive permit and thus don't have to file under MESA. He said that the presence of wetlands, etc., are not relevant to the removal of this restriction.

Chairman Cadle noted several documents into the record.

Bill Maher, engineer, said that he didn't know that there was an approval and didn't have the decision, but just had the new plan. He then discussed some of the issues addressed, going through his letter. He said that there was no drainage review and no calculations submitted.

Chairman Cadle asked for clarification from Mr. Maher as to what would be relevant just to the 55+ amendment.

Mr. Maher said that it is all the same, whether age 55+ restricted or not.

Mrs. Duffy noted concern, for example, that if there is standing water in the retention basins and little kids are in residence, whether the area should be fenced, etc.

Mr. Maher said that some areas have great soil and thus don't have much standing water and therefore wouldn't need fencing.

Mr. Bobrowski asked whether that was here specifically, or in general.

Mr. Maher said that he doesn't know what these soil conditions are like.

Chairman Cadle asked about a bus turn around.

Atty. Deschenes said that there would be no bus access on a private road, noting that there is plenty of room for a bus shelter. He also said that the original permit wanted a 24 foot road with parking only on one side.

Mrs. Duffy said that she was concerned about where children would wait for the school bus.

Atty. Bobrowski said that what is more important is that parents will pull down to wait in line and queue up with kids waiting for the bus. He said that he thinks the driveway is actually only 22 feet wide.

Mr. Maher said that with the berms there is only 22 feet of actual pavement.

Atty. Bobrowski asked whether the bus will pick up kids for Groton in Littleton.

Atty. Deschenes said that he doesn't know the answer but suggested that they could locate the bus waiting area over the line in Groton.

Ms. McWade said that she thinks parents will be lining up on Rt. 119 to pick up their children from the bus.

Atty. Deschenes said that the width of the roads was discussed at length and the Board determined that a 22 foot road is safe.

Mrs. Duffy said that when children are put into the project the numbers become very different.

Discussion ensued regarding how to handle the bus pickup and where the bus may turn around.

Atty. Deschenes said that he feels that a 22 foot road provides room for parents to wait in the roadway.

Ms. McWade noted concern that parents would not want to let young kids walk on Rt. 119 while an infant sits in the car. She said that she has a problem with the bus shelter being located down Rt. 119 in Groton.

Atty. Bobrowski asked whether they would need wetlands authorization to build a sidewalk.

Atty. Deschenes said that he doesn't know.

Mr. Bobrowski said that he questions the grandfathered status under the interim guidelines if they need to file a new wetlands plan.

Atty. Deschenes said that the sidewalk will be in an area that has already received a permit for disturbance. He also noted that with 36 two bedroom units there won't be a lot of children.

Mr. Bobrowski said that the Board needs to figure on 2 to 2.5 kids per unit. He said that there is an actual compendium regarding the number of kids in a unit for a 40B, but it is not consistent. He also noted that the distance from the back of the project to the front is a long walk for an 11 year old.

Ms. McWade said that parents don't let kids wait for the bus like they used to because there is a different way of life now.

Atty. Deschenes said that he doesn't disagree, noting that he doesn't know what the Groton rules are but said that a lot of towns don't provide bus service if the student lives within two miles of the school.

Discussion ensued re: bus rules, etc.

Atty. Deschenes said that he will meet with the school department to see what the rules are.

Mr. Bobrowski said that he wants to know about play areas.

The engineer said that there is plenty of room for a play area.

Mr. Bobrowski asked whether this would be the responsibility of the homeowners or the developer.

Atty. Deschenes said that they will do what the Board wants, noting that there is nothing on the engineering list that can't be done.

Chairman Cadle asked whether removing the 55+ restriction will make the units sell much more quickly.

Matt Field said that he thinks they will sell fast, even in this market.

Atty. Deschenes said that they have a few things left to do, such as retention pond water levels and school/children issues. He noted that they are still waiting for Mike Jacobs' final review, that this restriction is a key factor that needs to be removed. He said that everything will need to be finalized.

Mrs. Duffy noted that some little issues still need to be resolved.

The engineer said that they will make sure, per conditions of the permit, that these issues are taken care of.

Mr. Bobrowski asked Mr. Maher about the septic system, whether there has to be an increase in the system as shown for 36 non age restricted units, and if so, whether the system handle this increase.

The engineer for applicant, said this will be handled pursuant to Title V requirements.

Mr. Maher said that he hasn't seen an updated septic plan but there is sufficient area to install a larger system with the removal of the additional units.

Chairman Cadle asked whether Mr. Bobrowski agreed with Atty Deschenes that they don't need to file with MEPA at this point. Mr. Bobrowski said that they will have to find out what type of changes would trigger the study.

Dennis McEvoy asked if the Con. Comm. asked for a MEPA study.

Ms. Corwin said that according to the Con. Comm. there are additional studies, such as MESA, MEPA, Natural Heritage, etc that are needed.

Mr. Bobrowski said that he will follow up on this, noting that he doesn't see anything that automatically triggers a study. He said that 756.08, at the back of the regulations addressed this.

Atty. Deschenes said that he will be addressing the Orcott memo dated 10/21/08. He said that he is not proposing to change the water route and will do a hydrologic analysis when putting in the water pipes. We said that they will file with MESA, etc., as required. He noted that if water is put in through previously disturbed roadways, then they don't need to go the MESA route.

Mr. Bobrowski said that the HAC won't hear any environmental issues that are under other State agencies, and will only hear environmental issues if towns have adopted more stringent guidelines.

Chris Corwin, Con. Comm., said that when the guidelines were developed, no water was shown coming to the site at all and only on-site water was shown.

Mr. Bobrowski said that there could be a traffic issue and asked whether the board have any thoughts regarding traffic and parking review.

Mrs. Duffy noted that there are a lot of speeders on Rt. 119.

Atty. Deschenes said that he wants to at least generate a traffic generation chart for the Board, noting that the plan was originally based on 44 units and with less units but more traffic because of younger residents, it may be offsetting. He said that if a significant increase is found, maybe the Board will need a traffic peer review.

Mr. Bobrowski said that he doesn't disagree but the Board may want a professional to look at the staging area for bus stop.

Atty. Deschenes said that he is more inclined to do that rather than a blanket review.

Mrs. Duffy asked where the bus turns around now that picks up children near the Littleton line, noting that the road flares out where the driveway will be located.

Mrs. Manugian asked whether in moving from the prior plan to the current plan, have the limits in grading changed.

The engineer said that if anything the grading has been reduced.

Chairman Cadle asked Ms. Corwin whether any changes would need additional Conservation Commission review.

Ms. Corwin said that if there is just a form change there is no requirement but if it is determined that there is a major change, the Con. Comm. could require filing with MESA/Natural Heritage.

Atty. Deschenes said that the maps have changed and that he thinks it applies that this project is grandfathered because the permits have already been received. He said that it is not fair to open up the whole thing, noting that they are trying hard to prevent second bites to the apple here.

Mrs. Duffy noted that since the permit approval, a lot of rare nice turtles have been climbing out of the vernal pool.

Mrs. Manugian asked whether the wetland outlined at the top of the plan is a vernal pool.

Atty. Deschenes said that it is the largest vernal pool in the State of Mass but finds it hard to believe that the whole thing has vernal pool characteristics.

Connie Sartini asked how last night's town meeting vote affects this hearing.

Mrs. Duffy said that the Board knows nothing about it. Mr. Bobrowski said that we have to deal with only the application before the Board tonight.

Chairman Cadle said that he asked about it last night and got no answers. He noted that if they sell the site they will lose jurisdictional rights.

Ms. Corwin said that Barbara Ganem's letter touched on the issues of rare species and the impact of children on the site. She noted that kids tend to collect turtles and these rare turtles don't breed until the age of 20.

Ms. McWade asked where the turtles go to breed.

Ms. Corwin said that they like sandy, dry soil or go wetland to wetland.

Ms. McWade felt the Board had a right to protect the turtles.

Chairman Cadle suggested that one reason to keep kids out is to protect the turtles. Ms. Corwin agreed.

Atty. Deschenes said that they could work to educate the children in the project, noting that this is not a good reason to deny the request.

Ms. Corwin suggested asking Natural Heritage whether children would affect the turtles significantly.

Chairman Cadle asked how to determine/register Blanding turtles, etc.

Ms. Corwin said that she takes a picture and sends it in for certification.

Mr. Maher suggested a turtle fence built in back of the units to keep turtles out.

Atty. Bobrowski said spoke to Mike Jacobs and he is available the Tuesday before Thanksgiving.

The hearing was continued to 11/19 at 7:45 pm. The motion was seconded and passed unanimously.

The meeting adjourned at 9:30 pm.