



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

October 27, 2010

Present

Robert Cadle, Chairman
Cynthia Maxwell, Member
Mark Mulligan, Member
Alison Manugian, Member
Chase Duffy, Alternate Member

Bruce Easom, Conservation Commission

Not Present

Megan Mahoney, Alternate Member
Jay Prager, Member

A quorum was attained. The meeting was called to order at 8:00 pm.

Preliminary Agenda

- Mattbob/Oakridge 40B renewal
- Sign Bills
- New business

Meeting Minutes

Chairman Cadle convened the Mattbob/Oakridge Comprehensive Permit renewal hearing by reading the Legal Notice. He noted that before the hearing starts, he wanted to clarify that this permit has already been granted and there is an ongoing appeal of the ZBA decision to deny the request for modification to remove the 55+ age restriction. He said the board is still waiting for this HAC decision. He said an appeal by an abutter was filed in 2005 and thus the three-year period expiration date began after a decision was rendered and expires on 11/10/10.

Atty. Deschenes, agent for Mattbob, gave a brief history, noting the permit was granted in 2005 but because of an appeal, the permit started in November of 2007. He said he wanted to apply for a renewal prior to the permit's expiration. He said he just wants to extend the permit as granted with no changes, noting that State law relative to extensions is as clear as a law can be: extensions should not be unreasonably denied and such a request does not constitute a major change. He said there is no surprise as to why they are here because the economy took a down turn, especially for 55+ projects. He said neither

MassHousing nor any other entities are funding 55+ projects and thus his clients have not been able to move forward. He said economics have forced many projects to be put on hold or to fold, although they are optimistic that the market will come back. He said they do not know how quickly or how soon the market will come back but he feels there will be a demand for these units.

Chairman Cadle said he thinks it is clear there has been a slight downturn over the past few years, but wants to know what specifically has been done to obtain financing.

Atty. Deschenes said to get letters of approval, it is implied that state funding is available, or the developer can go to private banks that accept the State approval process. He said he spoke to MassHousing today and they are unaware of whether State funding will go forward, noting they are busy with the ballot question. He said condos are difficult now and if his clients want Freddie Mac funding, 55% of the units need to be sold before funding can be obtained.

Mr. Field said he went to North Middlesex, as well as the original funding institution, and neither would fund the project.

Mr. Mulligan asked whether the applicants would have started construction if funding could have been obtained during the past three years.

Atty. Deschenes said Mr. Field has been in real estate for years and at this point, units are difficult to sell and developers need to be able to carry unsold units. He said the intention is to move forward with the project at this point, which is why they have asked for the removal of the 55+ restriction.

Chairman Cadle said he wants clarification that Mattbob is asking for an additional three-year extension.

Atty. Deschenes said three years is maximum that can be granted and thus that is what they are asking for. He said they want the greatest opportunity for the market to change, noting that he doesn't see a recovery such that they will break ground in the spring of 2011. He said he wants the flexibility to wait for when the money is available again.

Mrs. Duffy asked about the project groundbreaking that Atty. Deschenes attended today.

Atty. Deschenes gave a history and discussion ensued regarding the financing available for a single-family affordable project.

Mr. Field spoke about a project he is building in Littleton that is 55+, noting that he is losing his shirt and wants to get out.

Atty. Deschenes said he is just asking for a reasonable extension and not a change in the permit.

Discussion ensued regarding how the market collapsed, etc.

Chairman Cadle said he understands there have been many delays, but noted that at some point, the project has to get going. He said he is thinking of a two-year extension with a status report every six months to make sure there is a little pressure from the board that some movement is being made.

The applicants said that is fair.

The Board felt this was reasonable.

Mr. Schulman asked what happens if the 40B Bylaw is thrown out in November.

Atty. Deschenes said the board has a limited time to make a decision, which would be before the new law would take effect.

Discussion ensued regarding whether there will be a Housing Appeals Committee if the 40B law is thrown out.

Chairman Cadle said he thinks they are vested rights that can't be taken away.

Mr. Mulligan said he feels the case for renewal needs to be a good cause, which has been presented.

Discussion ensued regarding what will transpire if the 40B law is repealed.

Atty. Deschenes said projects that are in the works before Jan. 6, 2011 will be protected, but there is no definitive knowledge. He said extensions are routinely granted and the board shouldn't look outside the four corners of this project.

Discussion ensued regarding how to handle a renewal, which the State says shouldn't be reasonably denied.

Mr. Schulman said he feels the argument is circular because laws for renewal come from Chapter 40B and he said he feels if the hearing is postponed until after the election and 40B is repealed, the extension should be denied.

Atty. Deschenes said if the board wants to deny the extension, it should happen tonight and not wait until after the election. He said he would have the right to go to the HAC even if 40B is repealed.

Mr. Mulligan suggested using the outline crafted by town counsel for the motion.

Mr. Mulligan moved to extend the permit to Mattbob to November 11, 2012, citing the verbage drafted by town counsel as the motion, adding that six month reports be submitted to the ZBA, in writing, regarding specific efforts to obtain financing and move the project forward.

Mr. Easom asked why construction updates from Mattbob are relevant.

Discussion ensued regarding how the updates will be used.

Mr. Easom asked whether these updates could be used to determine that no further extensions be granted.

Mrs. Duffy said they could, depending on the market.

Mrs. Duffy seconded the motion to grant, which passed unanimously.

Bills

The following bills were authorized for payment: Groton Herald, Computer Warrantee.

New business

The Davidson/LaRosa hearing was scheduled for 11/17/10.

Mr. Mulligan moved to adjourn at 8:40 pm, Chairman Cadle seconded and the motion passed unanimously.

Minutes approved 1/5/11.