

## ACTON PLANNING BOARD MEETING

May 7, 2009

A. **ROLL CALL** – 7:00

Members present were:

Chip Venell – Chairman

Thomas Cashin – Vice Chairman

Randy Goodwin

Yoli Gallagher

Keith Davis – 1<sup>st</sup> Alternate

Larissa Crockett – 2<sup>nd</sup> Alternate

Members absent were: James Fiske

Also present were Kenneth Paul, Code Enforcement Officer; Elise Miller and Dick Neal.

B. **MINUTES**

**April 16, 2009** – A Motion was made and seconded to approve the Minutes of the April 16, 2009 Meeting as corrected. Gallagher/Goodwin – Unanimous.

C. **UNFINISHED BUSINESS**

**Patrick Coyne – Site Plan Review for a Mobile Lunch Truck** – Mr. Venell

read the e-mail from Mr. Coyne advising that he will not be here this evening as he hasn't heard from MDOT as of today.

D. **NEW BUSINESS**

**Elise Miller – Conditional Use Permit for a Pre-School** – Ms Miller explained that she would like to start a pre-school in her home as a home occupation. She mentioned that it will not be a “day-care”. She stated that according to the State, she can have children for three hours per day. At this time, the Board reviewed the Land Use Chart in the Ordinance to determine whether this application is permitted in the Zoning District in which Ms Miller resides.

To Mr. Venell's question whether she has to fill out any paperwork for the State, Ms Miller replied none that she is aware of. She stated she did print out the application for a nursery school license as it appeared to be close to what she wants to do.

Mr. Venell felt that the Board should review those forms.

During a discussion of the location of her residence, Ms Miller indicated where it is on a plot plan and mentioned that her house is approximately 250 feet from the river.

Mr. Paul stated that this application falls under a Conditional Use Permit if the Board reviews it as a school, therefore, it would be more restrictive. He didn't feel this was a home occupation because this use is defined in the Ordinance.

Mr. Venell felt that it was up to the Board to determine in what category this application falls. He mentioned there are criteria for certain types of businesses and this application could be construed as a school or a child day care facility. He suggested that Ms Miller check with the State as to what she can do before the Board reviews the application any further and in that way, everyone will be aware of how the State defines what is being requested. He commented that whether it is a child day care or child care facility, applying the Conditional Use Permit is simpler than the Site Plan Review.

Ms Miller commented that she doesn't think there are any pre-school facilities in Acton, but there are day cares.

Mr. Paul mentioned that a child care facility is a Conditional Use, therefore, he would review this application as that and that might be even more than what Ms Miller is looking for. He said he didn't think that use is different from what is being requested.

It was the consensus of the Board to accept Mr. Paul's determination.

Ms Miller explained that she will have no more than six children and will only be open in the morning. She stated she will be conducting the school in her home at this time.

To Mr. Neal's comment there may be a requirement that a fence be installed because of the property's proximity to the river, Mr. Paul felt if so, it will be a State requirement.

Mr. Venell felt that the Board should know what the State requires and asked Ms Miller if she has reviewed the Conditional Use Permit process.

Ms Miller replied that she has and feels that most of them are not applicable. She mentioned that there is no fence on the property at this time, but there is a field between her home and the river near her garden. She said she didn't see how the property can be fenced. She explained that is why five or six children are all right for one adult.

Mr. Paul reiterated that this is a permitted use with a Conditional Use Permit, therefore, the applicant should be able to do whatever the State requires.

Mr. Venell commented that the applicant stated she has seen the criteria [for a Conditional Use Permit] and doesn't seem to have a problem with it. He didn't think the Board would hold up the application, but the applicant has to notify the State to determine what its criteria might be. He suggested that Ms Miller return to the Board after that time. He mentioned if the State doesn't require a fence that is something the Board could require and suggested that the Board Members think about whether they wish to request one.

Mr. Cashin suggested that the Board conduct a site walk.

E. **OTHER BUSINESS**

1. **Paul Ahlin – 1500 West Shore Drive – Best Possible Location** – Mr. Paul explained that the applicant will be demolishing the existing structure which is now 33' from the water. The new structure will be no closer than 38' when it is completed. The existing power lines are 40' long and the new lines will be 36'. He didn't think the proposed decks encroach into the setback. The applicant will have a new septic system and leach field which will be greater than 100' from the water. The shore frontage will be reduced slightly. The shed that is on the property now will remain. He mentioned that the applicant is willing to remove the existing foundation and the new foundation will be 13' back from where the old foundation is at this time. The applicant hasn't expanded to the full 30%, therefore, he can use the remaining amount within two years as per the State.

A Motion was made and seconded to approve the Code Enforcement Officer's recommendation for the best possible location requested by Paul Ahlin of 1500 West Shore Drive with the following conditions:

1. The new structure can be no more than 38' from the water; and
2. The landscaping that is disturbed must be revegetated.

Goodwin/Crockett – Unanimous.

2. **Resignation of Jim Fiske** – Mr. Venell said he has been advised that Jim Fiske will be submitting his resignation from the Planning Board and asked the Board to think of anyone they think might be willing to serve the balance of Mr. Fiske's term.

F. **ADJOURNMENT**

The Meeting was adjourned at 7:55 PM.

Respectfully submitted,

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**ANNA M. WILLIAMS,**  
Recording Secretary