

ACTON PLANNING BOARD MEETING
December 3, 2009

A. ROLL CALL – 7:00 Members present were:

Chip Venell – Chairman

Thomas Cashin – Vice Chairman

Yoli Gallagher

Keith Davis

David Jones- 2nd Alternate

Members absent were: Jessica Donnell – 1st Alternate

Also present were Kenneth Paul, Code Enforcement Officer; Melanie Brown representing the Acton Congregational Church; Patrick Frasier; John Nadeau and Larry Julius residents.

B. MINUTES

November 19, 2009 – A Motion was made and seconded to approve the Minutes of the November 19, 2009 Meeting as submitted. Davis/Gallagher – Unanimous.

C. PUBLIC HEARING

Acton Congregational Church – 59 H Road – M229/L002 – Conditional Use Permit for a Sign – Mr. Venell explained the public hearing procedure.

Ms Brown explained that the church would like to erect a new sign on the portion of the lot that is closest to Sam Page Road on the other side of the monument stone. She advised that the sign will be between 20 and 25' from the edge of the road. She submitted a sketch of the proposed sign. She stated that Dasco Signs is making the sign and it will be white with black lettering and gold on the top; there will be no lights; it will be erected on posts that will be set in cement; the sight distances will not be affected and there will be doors that can be opened so that the lettering can be changed.

After ascertaining that there were no questions or comments, Mr. Venell closed the public hearing at 7:08 PM.

A Motion was made and seconded to review the Findings of Fact for a Conditional Use Permit for the Acton Congregational Church. Davis/Jones – Unanimous.

At this time, the Board reviewed the criteria for a Conditional Use Permit with Mr. Venell explaining the process to the audience. It was determined that the criteria either was not applicable to this application or it met the appropriate criteria. It was noted that the checklist is contained in the file.

Mr. Cashin suggested that the Board approve the application with a condition that the sign remain unlit unless the church returns to the Board.

A Motion was made and seconded to approve a Conditional Use Permit for the Acton Congregational Church to erect a sign. Davis/Cashin – 4/1 (Ms Gallagher).

D. UNFINISHED BUSINESS

KJK Wireless for US Cellular – 1881 Route 109 – Site Plan Review for a Wireless Communications Tower – It was noted that the applicant's representative was notified that the Board would be discussing the new information submitted by a resident this evening and that he chose not to be present.

John Nadeau, a resident who provided information regarding the potential impact the proposed communications tower will have on the use of the Old Acton Airstrip referenced the documentation he submitted to the Board this evening for discussion as well as his letter dated

November 29, 2009. The documentation consisted of a diagram of an airplane's approach to the airstrip once the tower is erected as well as a diagram indicating the FAA's opinion regarding the use of the airstrip when the tower is in place and Mr. Nadeau's calculations in both instances. He explained the method by which he made his calculations and what factors he took into account which weren't addressed by the FAA.

After a discussion and questions by the Board, Mr. Venell suggested that Mr. Nadeau use some photographs explaining his position and calculations at the public hearing scheduled for Thursday, December 17, 2009, so that the attendees will be able to understand the problems he [Mr. Nadeau] feels will be created by the erection of the tower where it is proposed to be sited.

E. NEW BUSINESS

1. William Catanesy – 127 Heath Brook Drive – M152/L2 – Conditional Use

Permit for an Apartment – It was determined that the applicant was not present. Mr. Paul advised that he is familiar with the application so he can explain the application. He stated that the applicant would like to construct an apartment over his existing garage since there is adequate area to do so. It will contain a kitchen which makes it a dwelling unit. He advised there is a copy of the deed to the property in the file.

The Board reviewed page 73 of the Zoning Ordinance to ascertain whether the frontage on the property is sufficient with Mr. Paul explaining that the property meets all the require criteria as the lot contains five acres and has 431' of road frontage.

Mr. Venell mentioned that the abutters' list is also in the file, but the applicant has to submit a copy of the plot plan, but if it is contained in the Town's file, the Board may be able to use that for the perimeter survey and the location of the structure on the lot. He noted that once the requisite fee is submitted, the application will be complete.

A Motion was made and seconded to accept the application of William Catanesy for a Conditional Use Permit for an apartment over an existing garage. Davis/Cashin – Unanimous.

A public hearing on this application was scheduled for Thursday, January 7, 2010 at 7:30 PM.

2. Patrick Frasier – Proposed Division of Lot – Mr. Frasier submitted a sketch plan and explained the site is the Ford property across from the Acton School. He indicated the location of the existing dwelling. He stated he proposed to upgrade the road to Town standards and that it will be able to be used by all residents in the area that need to access the site. He advised he will site the road so as not to have to cut the trees because he likes the way they look. The road is approximately 50 to 100' from the brook which flows through what will be Lot 3. He mentioned that the house lot will be located on M244/L16-01. He proposes to divide the large parcel into four residential lots.

To Mr. Davis' question whether the residents of the Hebo Hibo Road have any right to use the road, Mr. Frasier advised that the people in the rear have the right to go to their house. He reiterated that he will be improving the road for everyone's use.

At this time, there was brief discussion regarding the possibility that the road being will be used for this development may be an abandoned road and the Board suggested that Mr. Frazier conduct a check of the County Registry of Deeds in Alfred.

During a discussion about the stone walls on the site and the fact that they narrow the road in some areas, Mr. Venell asked if he thought of removing one of the stone walls with Mr. Frazier advising that he had, but because they are such nice

walls, he doesn't want to do so. He pointed out that the Board can condition their approval with a statement that the road will never be submitted for acceptance as a Town road.

Mr. Venell advised he had no problem leaving the road as it is and retaining the trees and the stone walls.

At this time, the Board reviewed the applicable Subdivision Standards as well as the Acton Road Ordinance.

To Mr. Frazier's question whether the Town considers an acre 42,000' or the building acre of 40,000', Mr. Paul advised that they use the 42,000'. He stated he is requesting approval for a minor not a major subdivision since he is only proposing three lots. He advised since he now knows what the Board desires, he would like to be placed on the agenda for the next Meeting.

E. OTHER BUSINESS

Eagle's Trace Subdivision Soil Erosion/Siltation into a Wetland Problem – The Board referenced the MDEP Notice of Violation sent to the developer, David Jones, regarding the soil erosion and siltation into the wetland problems at the Eagle's Trace subdivision and advised that two residents of that subdivision appeared before them during each of the last two Meetings. It was noted that neither of those residents were directly affected by the situations referenced by MDEP, but merely were aware that they existed. The Board expressed their concern about the possibility that the approved plan was not sufficient to handle the referenced problems and the possibility of requiring a certification by the engineers that the approved plans adequately addressed the site conditions after the project is completed and to require a review and approval of any adjustments that may be required to the original approved plan.

Mr. Jones assured the Board that the situations that occurred had nothing to do with the approved engineering, but rather were the result of one of the lots being higher than the others which created the erosion and siltation problems. He stated he has dealt with those problems with MDEP and the Code Enforcement Officer to the satisfaction of MDEP. He reiterated the after-construction drainage situations were not a result of any problems with the original engineering. He gave a brief overview of his discussions with MDEP and the measures that were taken to rectify the problems.

Mr. Paul explained what has been done and felt that MDEP has addressed any drainage problems that may have existed. He mentioned that he received a letter from Sebago Technics advising that the project was built according to the approved plan, but that was prior to the development of the drainage situations which resulted in the need for a relief ditch.

Mr. Venell felt that since the measures taken to address the drainage situation were not on the approved plan, the Board should have reviewed and approved them with Mr. Jones advising that the work was done in August, 2009. He mentioned that they addressed the problems one way, but MDEP didn't like the slope of the banks so they redid the work in accordance with that agency's requests.

Mr. Venell reiterated that the Board should be made aware of any revisions to the approved plans or any measures that are required that would change what the Board reviewed and approved.

Mr. Jones assured the Board that there was no storm water drainage going anywhere it wasn't supposed to go. He reiterated that both he and the Code Enforcement Officer have looked at the site and determined that the approved plan was adhered to during construction. He stated the only problem was on Lot 5 and they installed a trench to lower the water table which is what caused the problems. He mentioned that the work was done as soon within two weeks after being notified by MDEP.

Mr. Paul advised that other subdivisions in Town have the same problem and have also installed ditches to address the situation.

Mr. Cashin stated the Board reached agreements with the developer and not the individual property owners, therefore, he felt what has occurred does not fall under the Board's jurisdiction, but rather is something for the Code Enforcement Officer to handle.

F. CODE ENFORCEMENT OFFICE BUSINESS

Jeffrey Gaskell – 892 Lakeside Drive – M112/L3 – Best Possible Location to Reconstruct an Existing Dwelling – Mr. Paul explained that the property owner would like to demolish the existing structure and replace it as per the plans submitted. He stated there will be a foundation which doesn't exist at this time as well as a new septic system which will be a pumped system. The structure will be set back 48' from the water where the existing structure is only 34'. He advised the plan is to plant vegetation where the existing structure is at this time. He said the new structure, which will be a ranch style home, will be 14' away from where the existing structure is now.

A Motion was made and seconded to approve the application for a Best Possible Location for Jeffrey Gaskell as submitted. Davis/Cashin – Unanimous.

G. ADJOURNMENT - The Meeting was adjourned at 9:00 PM.

Respectfully submitted,

ANNA M. WILLIAMS, Recording Secretary