



(Session 2)

**MINUTES OF THE HEARING ON THE PETITION OF  
ACTON HOUSING AUTHORITY MCCARTHY VILLAGE II, 15-26 SACHEM WAY**

**HEARING # 10-08**

A public hearing of the Acton Board of Appeals was held in Town Hall on Monday, September 13, 2010 at 7:30 PM in Room 126 of the Acton Town Hall.

In accordance with the provisions of M.G.L. c. 40B, §§ 20-23, the Acton Board of Appeals will hold a public hearing on Monday, September 13, 2010 at 7:30 PM in Room 204 of the Acton Town Hall Acton, MA on the application of the Acton Housing Authority for approval of a Comprehensive Permit on a parcel of land located at 15-26 Sachem Way, Acton, MA Map C-5/Parcel 16 of the Acton Town Atlas. The petitioner proposes 12 dwelling units with all of the units being affordable.

Present at the hearing was Ken Kozik, Chairperson; Jon Wagner, Member; Adam Hoffman, Alternate member; Scott Mutch, Zoning Enforcement Officer/Assistant Town Planner. Also present at the hearing was the Attorney for the Acton Housing Authority, Ruth Silman of Nixon/Peabody along with Timothy J. Williams P.E., Engineer and Ahmed Idris, Architect for the project. One abutter, from 122 Nonset Path, Charles Sullivan was present. There were also some members of the Acton Housing Authority present along with Director Kelly Cronin.

Ken Kozik reopened hearing # 10-08 and read the new contents of the file which included an email from an abutter Chuck Sullivan with his concerns. He then explained to everyone present that the Board of Appeals Secretary was not present this evening so in lieu of that he would be taping the session.

Ken Kozik began by stating that at the first meeting there were still outstanding issues that needed to be addressed and so it was continued to tonight. He was disappointed that the new submissions were only submitted today.

He asked Scott Mutch, Zoning Enforcement Officer to begin, since he has to leave for another hearing. Scott stated that the initial review was not his it was done by Kristen Alexander. He said he came into this project part way through and all he did was look through the revised plans that were submitted and commented in red on those issues. They read through all the outstanding issues in Scott Mutch's memo. One issue the Board had was a question regarding to the lighting plan and who regulates it or enforces it. Scott told the Board Zoning actually handles it. They would need to provide clarification that they are in compliance with the bylaw which is done by an Engineer who is certified to do a lighting design. Jon asked Scott when that would occur, as a condition or prior to the hearing closing. Scott said it would happen prior to the hearing being closed. Section 10.6.4.1 states this lighting plan be valid and correct by its designer. Moving on to the landscaping plan was never reviewed initially by Municipal Properites so the applicant updated the landscaping plan and submitted it last Thursday, unfortunately due to the three day minimum for submissions the Town would not accept them. The applicant has them here tonight to submit to you. It's additional landscaping above and beyond what the required they received a grant from the Board of Selectmen and the ACHC. Staff recommends the playground be shown on the revised plans. If all the issues are addressed everything looks fine. The property abuts conservation land so the

town is going to ask that a trail be shown and built as part of this as well. Landscaping issues are deferred to the Tree Warden. Ken asked the Board members if they had any other questions for Scott. Jon Wagner had a question regarding the lighting plan and where they are with that. Ken posed a question to Scott that if they submit a lighting plan who reviews it in town. Scott said he and Roland Bartl do. Adam Hoffman did not have any questions for Scott.

Attorney Ruth Silman, Legal Counsel for the Acton Housing Authority had some questions for Scott. She stated that the project intends to comply with all the lighting requirements and it was their understanding that the specifics on a lighting plan were the type of thing that would be submitted and approved prior to the building permit and they would certainly be amenable to some sort of condition. There is a timing issue here that the Board needs to be aware of. Since they first met they do have funding MHP and a private lender and in order to get the State piece of the money the application must go in by Thursday, Sept. 16<sup>th</sup>. They don't need to have the permit in hand but they do need to know they have been approved. Jon Wagner asked the Attorney if she was saying that the Board needs to vote to approve it. She doesn't feel this site has an over complicated lighting plan. They did not receive the comments until today and they were surprised to see all the lighting requirements. They knew they existed and they will comply but she said they'd like to figure out tonight exactly what may be needed or a requirement or condition subject to the approval of the final building permit or subject to approval from the Planning Department. With this rapid schedule Ken said he doesn't recall and he was wondering why it took so long for them to submit the materials from the August 2<sup>nd</sup> meeting. He got the impression that the Board would have received them in a week or two. Kelly Cronin chimed in and said they were asked by Roland Bartl that the plans be submitted by August 31<sup>st</sup>, to give the Planning Dept. time to respond. They submitted them to the town on the 31<sup>st</sup>. They complied with what was requested by the Planning dept. but unfortunately the original Planning dept. memo did not address this issue and it did not say they had any zoning variances or exemptions with respect to lighting. On this particular issue they are surprised and just found out today that they were being asked to provide additional information.

Ken asked if any one else had any questions for Scott before he left for his next meeting. Chuck Sullivan, abutter to the proposed project had some concerns regarding the septic system. He asks that the board does not grant the permit until the appropriate written legal permission or authorization has been received from the Department of Environmental Protection to allow for sewage connections to the North Acton Treatment Center. Scott Mutch said he spoke with Doug Halley, Health Director this afternoon and Doug is confident that the North Acton Treatment facility will get approval to connect. Mr. Sullivan's next issue is regarding whether or not a future playground is being proposed for this project. Ken brought up the fact that in Kristen Alexander's original memo it stated staff would support or recommend a playground for the site. He asked Kelley Cronin if they proposed a playground initially. Kelly said they had hoped at one point there would be a playground there but added they don't have the resources to do that right now and there has been a lot of support for keeping the screening that exists in place. She added that also the original decision precludes them from putting playground equipment in. She added they will not be putting a playground on that site. Scott Mutch said he would have to go back and do research. He remembers that Roland Bartl was strongly in favor of putting a playground in and felt that now was the time to do it. Jon Wagner was wondering if the plan had a recreation area on it or why is Roland saying it should be in the plans. Jon Wagner feels if their not going to have a playground it should be stated in the decision. Steve Baker of Baker Wohl Architects here on behalf of the proponent can clear this up. He said their initial submission showed an outline of a possible future playground but it was never part of the scope of this project so they have never actually come forward to propose this. After a

lengthy discussion regarding the playground issue and the plans that were submitted between the board members, Scott and the applicant the Attorney, Ruth Silman said they will submit the August 23<sup>rd</sup> plans that have not been submitted in addition to including the outstanding issues remaining. Mr. Sullivan also requests that a thick screen of dense or hedge-type trees or landscaping be mandated along the borders of both 122 & 124 Nonset Path. He would like a trail created to access conservation land be required on the high-side topographically leading in the direction toward NARA park.

The next issue for discussion was #4 of the Planning department memo. It deals with the undisturbed open space. Planning would like the plans labeled. Ken asked the applicant how long it would take for them to label the plans. Kelly said she will seek clarification on that and do their best to get them in by the next day. In #5 of the Planning dept. memo Ken said Engineering should be looking at that. Attorney Ruth Silman asked if they could look at #6 of the planning memo. She thinks there's been a miscommunication or misunderstanding. The comment states that they agreed to do a sidewalk. They would very much like to do it but they just don't have the funds. They stated at the August 2<sup>nd</sup> meeting that they clearly don't have any money. Kelly Cronin added that their response said they would extend the sidewalk not contribute to the sidewalk. Ken said he is comfortable with what Kristin said in #6 of her memo.

Jon Wagner asked the Architect what they proposed to do in regards to submitting a plan for the lighting. He said they weren't requested originally to submit a lighting plan. Ken asked if the Architect could submit the lighting plan tomorrow to the planning department. Steve Baker of Wohl Architects stated that the memo received today is clear in what's required of them and they will comply with it. They may need to submit some additional calculations and as far as they know they are in full compliance.

The Attorney wanted to go back to issue #12 in the memo regarding the stairs or steps leading into the accessible units. The Attorney's understanding was there were no steps leading to the units. Scott's comment in his memo states that it was unclear from the revised drawings. The architect showed on the drawings the entrance to the accessible unit which is accessible. The Attorney said they will clarify that first thing in the morning.

On #16 the landscaping plans. The attorney said they would like to formally submit the landscape plans. The revised plans are in response to comments from the last hearing. The changes to the landscape plan in general are additional screening to Mr. Sullivan's property. In addition foundation plantings have been added around the base of the buildings to provide landscape interest at the front of all of the houses. The major concern was the desire to add additional material which they have done. They have added evergreens that have a low canopy that will not grow too tall. Approximately 10-12 trees have been added from the original plan was submitted. Chuck Sullivan, abutter had concerns or issues about the trees being scattered. Kelly Cronin said they would be happy to meet with Chuck Sullivan and the other abutter Alex who couldn't be present to discuss different options for their satisfaction. They can increase the density of screening.

Attorney Silman started discussion on the trail. She said they had a very long community process prior to coming to the BOA and one of the things they heard from the neighbors was that they didn't want added foot traffic. The residences of the complex will continue to use the way they have always used to Nara Park. Ken said it appears the Planning Dept. would like them to extend the foot path. The applicant does not want to add to the trail.

On number 19 of the Engineering memo, issue #4 regarding the plantings. It has been submitted and approved by the tree warden. Issue # 5 & 6 of number 19 are all set and were submitted with the original application. The Board recommends the applicant states where it can be found in writing to the planning department. Ken said #20 the applicant has no issues.

Ken began the discussion on the Engineering comments. Brian Jones, Civil Engineer for the project addressed all the questions and issues that the Board had. In issue #1 they have not added spot grades but will address and add these. Item #2 and #3 and #4 are all set. Item #5 and #6 and #7 will be addressed by the applicant's Engineer. They will email the revisions to Cheryl. Item #8 and #9 are unresolved. Jon Wagner said there seems to be some confusion regarding the trail and the extension of it. He asked Scott where the origin or rationale came in regarding the connecting of the trail. Scott was unsure because he came in halfway through the process so he would have to check. Jon Wagner felt it needs to be looked into in so the Board can make a decision whether the applicant needs to do it or not.

Ken asked if there were any more question from the audience. Chuck Sullivan abutter from Nonset Path still had issues and questions regarding the sewer connection. Ruth Silman said if they don't get the sewer connection approval they are not going to get funded. There's a fundamental permit that's required for this project. If they don't get the sewer connection they will be back to square one.

Ken asked the Board how they would like to proceed. Ken said there are some outstanding issues that the applicant will address and others that require more detail.

The Board moved to continue **Hearing #10-08** to Monday, September 20, 2010 at 8:00 pm. The motion was so moved.

**Respectfully submitted,**

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**Cheryl Frazier**

**Board of Appeals Secretary**

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**Ken Kozik**

**Chairman, Board of Appeals**