



ACTON ZONING BOARD OF APPEALS

Minutes of Meeting

5/6/2019

7:30PM

Acton Town Hall

472 Main Street

Room 204

Board of Appeals members in attendance: Ken Kozik, Adam Hoffman, Emilie Ying.

Absent: Suzanne Buckmelter, R. Scott Robb

Also present: Roland Bartl, Planning Director; Vivian Birchall, Administrative Assistant; Stephen Anderson, Town Counsel.

1. Opening

Chair, Ken Kozik opened the meeting at 7:30 p.m.

2. Minutes

Mr. Hoffman moved to approve the 4/29/2019 minutes. The motion was seconded by Ms. Ying. The motion was unanimously (3-0) approved

3. New/Special Business

7:35 PM – ZBA 19-05 – Hearing, 236 Central Street Special Permit Application

The applicant presented an overview of the application for a special permit, including a simulation of the proposed building and highlighting the consultative process with the town staff.

Ms. Ying moved, Mr. Hoffman seconded and the board unanimously voted 3-0 to close the public hearing at 8:05pm.

Deliberations:

The board discussed the application. Ms. Ying moved, Mr. Hoffman seconded, and the board unanimously (3-0) voted to approve the special permit application with conditions recommended by the Planning Division staff.

Ms. Ying will write the decision.

8:08 PM – ZBA 19-06 – Hearing, 12 Orchard Drive Special Permit Application

The applicant and the property owners presented an overview of the application for a special permit and mentioned that they have been working in consultation with the planning staff to come up with a conforming plan.

Ms. Ying moved, Mr. Hoffman seconded, and the board voted unanimously (3-0) to close the public hearing.

Deliberations:

The board discussed the application and agreed that the project as presented, with conditions proposed by the staff, complies with the by-laws and would not be injurious or detrimental to the neighborhood. Mr. Kozik moved, Mr. Hoffman seconded and the board unanimously (3-0) voted approve the special permit application with conditions to build substantially to the measurements and plan reviewed during the 5/6/2019 meeting.

The decision will be written by Mr. Kozik.

8:30 PM – ZBA 19-07 – Hearing, 4 Piper Lane Comprehensive Permit Application

Mr. Bruce D. Ringwall on behalf of the applicant, presented an overview of the application/proposed development which he said was guided by the subdivision control law. The presentation included proposed location, zone, acreage, number of units, building plan, interaction and comments from town departments and concerns from abutters.

The ZBA chair noted that there is a prior special permit application related to the land that the Board handled within the preceding year. He asked Town Counsel to advise the Board on the subject and whether or not the State's Comprehensive Permit Regulations provide a 40B Safe Harbor in this case.

Presentation by Town Counsel

Mr. Anderson gave a detailed presentation on: Potential 40B Safe Harbors; 760 CMR 56.03: Methods to Measure Progress Toward Local Affordable Housing Goals; Chronology re potential safe harbors under 760 CMR 56.03; How boards can proceed despite safe harbors; Board's waiver upon failure to invoke safe harbor 760 CMR 56.05 (3); ZBA's options as to safe harbors; Procedure to invoke safe harbor 760 CMR 56.03(1); Housing Production plan safe harbor; Related Application Safe Harbor; Factors that need to be satisfied for Related Application Safe Harbor; Potential response Re "Not Same Developer"; Potential response Re "Not Same Property"; Potential response Re "Not Same Purpose"; Potential response Re "Exception Applies".

He explained the 4 Piper Lane Comprehensive Permit Application in the context of Safe Harbors.

Response by the legal representative from South Acton Neighborhood Association (SANA)

Mr. Dan Hill pointed out reasons that the application should be denied under the State's Safe Harbor regulations. These included;

- The site in question was the subject of a related application that sought a special permit
- By definition, the prior application was more than a minor modification and that is why it needed a special permit
- Intent of the developer is irrelevant under the safe harbor regulations
- The regulation does not require that the site of the work be exactly the same.

Response by the applicant's attorney

Mr. Levine explained the application, land acquisition process and timing in comparison to the fore-mentioned affiliated application. He pointed out that comments from the different town departments showed minimal concerns, and were overall good. He added that MassHousing had found no problems with the application and issued a Project Eligibility Letter.

Several members of the attending public offered additional comments.

Discussion:

Each board member expressed their conclusion from the hearing, stating that they would vote to invoke safe harbor 760 CMR 56.05 (3)

After discussion, Mr. Kozik moved and Ms. Ying seconded to invoke safe harbor 760 CMR 56.05 (3). The motion was unanimously approved (3-0)

Mr. Kozik moved, Ms. Ying seconded and the board unanimously voted (3-0) to continue the public hearing on 5/13/2019, 7:35pm at Town Hall Room 204.

Mr. Anderson and Mr. Bartl will draft the decision to be discussed at the continued public hearing.

4. Adjournment

At 11:05p.m, Mr. Hoffman moved and Ms. Ying seconded to adjourn the meeting. The motion was approved unanimously.

Documents used

05-06-19 - Meeting Information

Type	Title	Status	Modified Date	Size	Actions
Folder	19-05 - 236 Central Street	planning	03/12/19	4	More
Folder	19-06 - 12 Orchard Drive	planning	03/25/19	4	More
Folder	19-07 - Pigeon Lane Comprehensive Permit	planning	04/02/19	11	More
PDF	05-05-19 ZSA Agenda	planning	05/02/19	219 KB	More
PDF	DRAFT 4-25-19 Zoning Board of Appeals Minutes	planning	05/02/19	232 KB	More

19-05 - 236 Central Street

Type	Title	Status	Modified Date	Size	Actions
Folder	Application	planning	03/12/19	3	More
Folder	Public Comments	planning	03/12/19	2	More
Folder	Staff Comments	planning	03/12/19	5	More
PDF	236 Central St. Revised Legal Notice	planning	04/25/19	169 KB	More

Application

Type	Title	Status	Modified Date	Size	Actions
PDF	Applicant's Building	planning	05/07/19	230 KB	More
PDF	Letter from Scott Hayes - 1935_ZSA_ZSL 4.1.8_4-25-19.pdf	planning	04/25/19	81 KB	More
PDF	Special Permit Application 3.8.19	planning	03/12/19	2 MB	More

Public Comments

Type	Title	Status	Modified Date	Size	Actions
PDF	Annette Lochrie Comments	planning	04/22/19	16 KB	More
PDF	Terra Friedrichs Comments	planning	04/22/19	13 KB	More

Staff Comments

Type	Title	Status	Modified Date	Size	Actions
PDF	19-05 - Planning Department Memo.pdf	planning	05/01/19	110 KB	More
PDF	AWD Comments	planning	04/22/19	99 KB	More
PDF	Building Comments 5-3-19	planning	05/06/19	54 KB	More
PDF	Building Commissioner 5-6-19	planning	05/06/19	51 KB	More
PDF	Building Division Comments	planning	04/01/19	67 KB	More
PDF	Engineering Department Comments	planning	03/19/19	164 KB	More
PDF	Engineering Department Comments 5-1-19	planning	05/01/19	162 KB	More
PDF	Health Comments	planning	04/19/19	39 KB	More

19-06 - 12 Orchard Drive

Type	Title	Status	Workflow Date	Size	Actions
	Application	planning	03/25/19	2	...
	Public Comments	planning	03/25/19	3	...
	Staff Comments	planning	03/25/19	4	...
	12 Orchard Dr. Revised Legal Notice	planning	04/25/19	100 KB	...

Application

Type	Title	Status	Workflow Date	Size	Actions
	Application	planning	03/25/19	13 KB	...
	Proposed First Floor	planning	04/15/19	126 KB	...
	Proposed Second Floor	planning	04/15/19	15 KB	...

Public Comments

Type	Title	Status	Workflow Date	Size	Actions
	Devin Lee Comments	planning	04/10/19	14 KB	...
	Jared Bloom Comments	planning	04/16/19	5 KB	...
	Steven Sturrah Comments	planning	04/22/19	11 KB	...

Staff Comments

Type	Title	Status	Workflow Date	Size	Actions
	19-06 - 12 Orchard Drive Planning Division Memo	planning	04/22/19	10 KB	...
	AW2 Comments	planning	04/22/19	101 KB	...
	Engineering Comments	planning	03/27/19	107 KB	...
	Health Comments	planning	04/04/19	12 KB	...

19-07 - Piper Lane Comprehensive Permit

Type	Title	Status	Workflow Date	Size	Actions
	2018 Plan	planning	03/03/19	1	...
	80 School Street Documents	planning	03/06/19	13	...
	Application	planning	04/01/19	9	...
	Other Associated Housing Documents	planning	03/06/19	3	...
	Pre-Application	planning	03/03/19	4	...
	Public Comments	planning	04/04/19	22	...
	Staff Comments	planning	04/09/19	13	...
	760 Code of Mass. Regs Chapter 86.00	planning	03/02/19	271 KB	...
	Comprehensive Permit Application - Piper Lane, Acton, MA - hearing extension agreement	planning	03/02/19	37 KB	...
	Letter to Zoning Board of Appeals with Exhibits 6.2.18	planning	03/02/19	1 KB	...
	Piper Lane Revised Legal Notice	planning	04/25/19	103 KB	...

2015 Fire



Type	Title	Owner	Modified Date	Size	Actions
	2015_0033 90 School Street Report AFD (redacted)	planning	05/03/19	96 KB	

90 School Street Documents

Type	Title	Owner	Modified Date	Size	Actions
	18-01 - 90 School Street Planning Dept Memo w. Legal	planning	05/02/19	1 MB	
	90 School Street Final Signed & Stamped Decision	planning	05/02/19	172 KB	
	Application	planning	05/02/19	992 KB	
	AWQ Comments	planning	05/02/19	108 KB	
	Engineering and Health Comments	planning	05/02/19	75 KB	
	Fire Comments	planning	05/02/19	44 KB	
	First Agreement on Time Extension	planning	05/02/19	42 KB	
	Full Plans	planning	05/02/19	1 MB	
	HDC LETTER_90 School Street	planning	05/02/19	98 KB	
	Neighborhood Letter	planning	05/02/19	174 KB	
	Property Card	planning	05/02/19	773 KB	
	Second Time Extension	planning	05/02/19	30 KB	
	ZBL Section 3	planning	05/02/19	91 KB	

Application

Type	Title	Owner	Modified Date	Size	Actions
	Low Pressure Sewer Plan	planning	04/29/19	1 MB	
	Piper Lane 40B Application	planning	04/29/19	31 MB	
	Piper Lane Condominium Site Plans	planning	04/29/19	37 MB	
	Piper Lane Condo Floor Plans	planning	04/29/19	232 KB	
	Piper Lane Condo Renderings	planning	04/29/19	1 MB	
	Piper Lane Hydraulic Report	planning	04/29/19	221 KB	
	Piper Lane Report Letter 3-7-18	planning	04/29/19	1 MB	
	Stormwater Management Report Piper Lane LLC (March 2018)	planning	04/29/19	3 MB	
	Stormwater O&M Piper Lane LLC (March 2018)	planning	04/29/19	430 KB	

Other Associated Housing Documents

Type	Title	Owner	Modified Date	Size	Actions
	2019-4-9_Acton - letter for HPP Certification - Avalon II	planning	05/06/19	103 KB	
	Acton Avalon Phase II - Final Decision Signed and Stamped	planning	05/06/19	530 KB	
	Housing-Production-Plan-2019	planning	05/06/19	2 MB	

Pre-Application

Open	Title	Status	Workflow Date	Size	Actions
	Acton comment to MassHousing 03-01-19	planning	050319	241 KB	
	Acton Comments to MassHousing 11-13-18	planning	060119	300 KB	
	MassHousing Letter to Acton 09-04-18	planning	050319	11 KB	
	MassHousing Site Approval Letter 03-29-2019	planning	050319	411 KB	

Public Comments

Open	Title	Status	Workflow Date	Size	Actions
	Alizza Ricci on behalf of SANA comments 4-20-2019 <small>This information was submitted to the Planning Division as a hard copy binder. The materials referenced in the cover letter are available for public view in the Acton Land Use Department M-F, 9AM-5PM.</small>	planning	041819	491 KB	
	Barbara Morse Comments 4-25-19	planning	042919	42 KB	
	Carolyn Dittes and Frank McNamara 5-6-19	planning	050619	14 KB	
	Catherine Bradshaw-Holden 5-6-19	planning	050619	16 KB	
	Cheryl Bible Comments 4-28-19	planning	042919	34 KB	
	Christy White & Philip Corp 4-22-19	planning	042219	14 KB	
	Dan Hill 5-6-19	planning	050719	1 MB	
	Daniel Hill Comments 4-11-19	planning	041119	2 KB	
	David Horn Comments 4-25-19	planning	042919	41 KB	
	Gene Berezin & Michaela Moran Comments 4-16-19	planning	041619	120 KB	
	Gene Besin Comments 5-3-19	planning	050319	1 KB	
	Jean Butler 5-6-19	planning	050619	11 KB	
	Jennifer Brown 5-4-19	planning	050619	11 KB	
	Judi Kotanchik 5-6-19	planning	050719	14 KB	
	Lauren Miller 5-6-19	planning	050719	14 KB	
	Michaela Moran Comments 4-4-19	planning	041119	107 KB	
	Nancy Decker 5-6-19	planning	050619	13 KB	
	Peter Grover 5-6-19	planning	050619	11 KB	
	Robin Hen 5-6-19	planning	050619	13 KB	
	Roger Gay 5-6-19	planning	050719	13 KB	
	Rustin Carpenter 5-6-19	planning	050619	13 KB	
	William Gilpatrick 5-4-19	planning	050619	10 KB	

Type	Title	Owner	Meeting Date	File	Actions
	4 Piper Lane PD memo with attachment	planning	05/07/19	109 KB	
	ACHC 4 Piper Lane comments to ZBA 5-3-19	planning	05/07/19	248 KB	
	AWO Comments 4-29-19	planning	05/07/19	101 KB	
	Cross-Town Connect Comments 4-30-19	planning	05/07/19	120 KB	
	Engineering Department Comments 4-29-19	planning	05/07/19	140 KB	
	Fire Department Comments 5-1-19	planning	05/07/19	47 KB	
	HDC Comments 4-25-19	planning	05/07/19	89 KB	
	Health Division Comments 4-30-19	planning	05/07/19	32 KB	
	Piper Lane Condominium - DRB 05-01-2019 Review - revised	planning	05/06/19	116 KB	
	Police Comments 5-3-19	planning	05/07/19	85 KB	
	SDA PP Slide Deck - 5-3-19 (A0516485x020BA3)	planning	05/07/19	716 KB	
	SDA PP Slide Deck 2 - 5-6-19	planning	05/06/19	307 KB	
	SDA PP Slide Deck 3 - 5-6-19	planning	05/07/19	336 KB	

For additional materials used during the meeting, please visit: <http://doc.acton-ma.gov/dsweb/View/Collection-10518>

Respectfully Submitted,

Vivian Birchall
Land Use Department