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**MINUTES OF THE HEARING ON THE PETITION OF MARSH VIEW LLC, 93 CENTRAL STREET HEARING # 09-03**

A public hearing of the Acton Board of Appeals was held in the Town Hall on Tuesday, December 15, 2009 at 7:30 pm on the petition by Marsh View, LLC for approval of a Comprehensive Permit on a parcel located at 93 Central Street, Acton, MA, Parcel 123 on Map G-2 of the Acton Town Atlas. The petitioner proposes four single family dwelling units with one of the units being affordable.

Present at the hearing were Jonathan Wagner, Member; Ken Kozik Acting Chairman; Richard Fallon, Alternate member; Scott Mutch, Zoning Enforcement Officer Assistant Town Planner and Cheryl Frazier, Board of Appeals Secretary. Also present was the Petitioner, James D'Agostine, his consultant Isabelle Choate and many abutters to the property.

Ken Kozik re-opened continued hearing # 09-03, read the new submissions in the application file, which included a note from the Zoning Enforcement Officer, a note from Roland Bartl, Town Planner, a memo from the Treasurer of Acton, a memo from the Fire Chief, a site development plan from Dean Charter, Municipal Properties, a letter from Attorney Mark Bobrowski dated December 15<sup>th</sup>, a memo from Corey York, Engineering Dept., a memo from Justin Snair, Health Dept., a letter from Acton Survey and Engineering to the Acton Board of Health, a letter to the Fire Chief from Acton Survey and Engineering, and a site plan from Acton Survey and Engineering. Ken then asked the Petitioner if he wanted to continue the hearing since he and some of the Board members have not had a chance to go over the memos. Mr. D'Agostine said he believes he can answer most of the questions that the Board might have tonight.

Ken asked Scott to go over the latest comments from the Planning Department. The tree warden is comfortable with the trees and shrubs being drought resistant. He is not comfortable with drought resistant sod. He would like to see loam placed under the sod on the plan. He would also like the topsoil changed to loam. Mr. D'Agostine asked if the issues could be written in the decision. Ken Kozik suggested the land surveyor stamp and certify every sheet of the plan. The tree warden would like to see either aborvite or Canadian hemlock used for adequate screening of the property. Item a, c, and f, have not been addressed by the applicant but will be. Item h. summarizes staff recommending that any decision being drafted or rendered by the BOA with

**as few conditions as possible. Any and all outstanding items from any municipal departments should be addressed prior to the public hearing being closed or any Decision being rendered or written.**

**The Board feels the legal matters should take place before the decision is written to be sure Counsel is all set.**

**Ken moved on to the Engineering Dept. memo and their comments.**

**The Engineering Department stated that in order for an emergency SU-30 vehicle to maneuver within the turnaround at the rear of the site, it appears that the fire truck will need to partially drive over the grass shoulder.**

**It seems that modifying the width and pavement radiuses for Pine Ridge Road at Central Street and the driveway for Unit #2 could accommodate a fire truck without the need to the extensive amount of additional pavement in front of Unit #1 as shown in the alternate driveway detail.**

**Item #2 has not been completed but will be by the next hearing. Item #3 has been completed. Item #4 the applicant states that the design is outside the 10 foot setback. Items # 5 and #6 have been completed. Item # 7 has been completed. Item # 8 completed. Item # 9 the applicant will make efforts to protect the existing subsurface sewage disposal system. Items #10 and #11 have been completed. Item #13 it appears that the applicant will use 93 Central Street as the street address for the entire project and each individual dwelling be identified by the assigned unit number as shown on the plan.**

**Ken Kozik then brought up the memo to the Board of Appeals from the Town Treasurer's regarding the payment plan and how it was structured.**

**The memo from the Board of Health states that the previous issues have been resolved and recommends approval with two conditions. 1. An application for permit for minor repair of the SSDS serving 89 Central St. 2. A letter from the owner of 89 Central Street granting permission to conduct the proposed work on the SSDS serving that dwelling must be received by the Health Department prior to the issuance of minor repair permit. Ken added there is a valid concern that if there is a vent there with pressure treated posts the snow could get pushed over and cover the vent. The applicant is moving the vent over to the left.**

**Next are the Engineers notes regarding the site plan**

**Ken noted a letter that was received today from Attorney Mark Bobrowski who represents Gwynn Horsburgh, owner and abutter of 89 Central Street. The attorney also forwarded the submission to Town Counsel. They have not heard back from Town Counsel regarding this submission.**

**Rick Fallon suggested that if the applicant and abutters could get information to the Board one to two weeks prior to the next hearing the Board would be able to make a decision on the petition either pro or con.**

**Ken asked abutters if they had any comments. Louise Mar of 44 Tuttle Drive said she was unable to attend the last hearing, but a neighbor spoke on her behalf regarding the buffer from her property to the development. She sent an email to the Zoning department (which is in the file) in regards to this matter.**

**Mr. D'Agostine explained to the Board and the abutters the changes that have been made on the Site Plan as far as screening, septic, changes in trees and fencing.**

**Maureen Ryan-Friend abutter from 40 Tuttle Drive has concerns regarding the snow from the development being plowed into her yard. Mr. Donohue said before the next hearing they will draw everything on the plan showing the fences and the abutting homes to the property. Scott asked for a typical detail of what the fences are like.**

**Deborah Piper, abutter from 101 Central St. had a question about the walkway along the left side of the property where she walks along the path towards Tuttle and if the path would be disturbed. The petitioner said the path will not be disturbed.**

**Ken Guditz, of 81 Central Street has concerns about the FAR and if that has been addressed. Scott will look into it and see if that has been addressed. The other issue he has is that the back of the buildings are facing Central Street and are 8' feet above ground foundation, along with the shed dormer it will not look like a cape but look more like a three story house. He also had concerns with the houses being too close to each other and if that would be a zoning issue.**

**John Horan, abutter at 101 Central Street has genuine concerns along with the other abutters. He thinks projects like these are offensive to the town of Acton and the neighborhood.**

**Gwynn Horsburgh would like to know if there will be a no parking sign so the new residents won't park in her driveway. She would also like to know if she would be released from all liability for the easement along with not continuing to pay taxes on the easement property which she pays right now. Ken suggested that the petitioner and the abutter should speak to each other regarding this matter. The Board cannot get involved with these issues.**

**Ken Guditz would like to see elevations. Mark Donohue said he could draw up a plan.**

**The Board requested that the Engineer provide them with a rough plan showing elevations, along with the other information that the Board has requested tonight.**

**Jon Wagner moved to continue the hearing to Monday, January 25<sup>th</sup> at 7:30 pm in Room 126. Ken Kozik seconded the motion, the motion was so moved.**

**Respectfully submitted,**

  
**Cheryl Frazier**  
**Board of Appeals Secretary**

  
**Ken Kozik**  
**Chairman, Board of Appeals**