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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, March 10, 2010 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 and Assistant Town Planner and Cheryl Frazier, Board of Appeals Secretary. Also present was the Petitioner, James D'Agostine, and multiple abutters to the property.

Ken Kozik reconvened hearing # 09-03. Ken explained how he would proceed tonight. When they met a few weeks ago the Board asked the developer, even though it was not mandatory, if he would submit stamped architectural plans and elevations of the proposed homes. Mr. D'Agostine submitted four sets of plans tonight, one for each unit.

Ken asked if there were any other new submissions submitted since the last hearing.

Ken opened up the hearing for public comment. Ken asked to please try not to be repetitive with their comments.

John Horan, 101 Central Street, not an abutter but a neighbor to the property, stated that all these hearings the citizens and abutters present had nothing good to say about this development. His wife couldn't be here tonight so she asked him to read a statement which she wrote in opposition to the development.

Ken asked the audience if they had any more questions or comments. He asked Scott if he had anything to add. Rich Fallon had a question for Scott regarding the screening and fencing from the other properties and what was on the final plans. He also wanted to know what they ended up using at the back of the property and at the turnaround. Ken asked Mr. D'Agostine to explain the final landscaping, planting and fencing. Jon said if the decision is approved with conditions they would have to bullet the conditions to include the landscaping. Scott found the latest site plan that was dated February 1, 2010 and the most recent revised landscape plan that was dated January 6, 2010 which shows a row of trees, white pines, and three six foot high vinyl fences.

Ken Guditz, 81 Central St. said trees and fencing do not promote better neighborhoods. All the screening and fencing seems like they are just trying to hide what they are building.

Mr. D'Agostine, read a statement to the Board. He began by stating that the town has not yet met their 10% of affordable housing. He said basically he has met all the guidelines and has done everything he has been asked to do. There are apartments, gas stations and two family structures in the surrounding areas. No matter what he does he can't keep everyone happy. The neighbors don't want to see anything built on that property they want it to stay the way it is now.

Ken made a motion to close hearing # 09-03 for 93 Central Street. Jon Wagner so moved, Rick Fallon seconded the motion. The hearing was closed.


The Board began deliberations.

- There was consensus agreement that the developer had done everything that the Board of Appeals and other municipal agencies had asked him to do.
- There was unanimous consensus that there were no outstanding health or life safety issues. The developer had sufficiently addressed all previously identified concerns.
- There was discussion regarding the Planning Department memo which stated "In summary, this is a project that seems to fit without much needed justification into the existing neighborhood due to its small scale, moderate density, and single-family style". Ken agreed with the statement. There was discussion centered around "fit" yet no board agreement was reached. Jon Wagner disagreed with the statement and Rich Fallon was silent.
- There was disagreement among members regarding the proposed or perceived impact of structures (development) on surrounding properties.
- Extensive discussion regarding 760 CMR 56.07 (b) "the degree to which the design of the site and the proposed housing is seriously deficient." There was discussion with what "seriously deficient" meant. No resolution or understanding was determined.

Ken asked for a motion to approve the Comprehensive Permit for 93 Central St. Jon Wagner so moved, Rick seconded. The Board voted one (1) in favor (Ken Kozik) and two (2) opposed (Jon Wagner and Rick Fallon). Motion failed. Comprehensive Permit Denied.

Respectfully submitted,


Cheryl Frazier
Board of Appeals Secretary


Ken Kozik
Chairman, Board of Appeals