



Town of Pepperell
BOARD OF APPEALS
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Zoning Board of Appeals Meeting Minutes of February 27, 2008

PRESENT: Thomas McGrath, Sherrill Rosoff, Annette McLean, Mark Walsh, and Cheryl Lutcza (ZBA Assistant). Also present, Town Counsel, Edward J. Richardson.

7:00 P.M. Chairman convenes the hearing. First agenda item is a continuation hearing, which was previously opened on January 16, 2008, regarding an application submitted by Jayron Realty, Inc., Kevin Slattery, President, seeking a 40B Comprehensive Permit under the Local Initiative Program, pursuant to M.G.L. Chapter 40B, to construct a subdivision consisting of 56 single-family homes, on a 41.26 acre parcel. All 56 units will be clustered on 13.5 acres, with the remaining acreage to be donated to the Town of Pepperell. Subject property is located at 196 Nashua Road, Pepperell, MA, as shown on Assessor's Map 6 as Parcel 7, Parcels 11-2 through 11-11, Parcel 11-13, and Parcel 19-0.

Clerk reads legal notice into the record.

Applicants Kevin Slattery and Dave Petropolis are present, and are being represented by Attorney Jay Talerman of Blatman, Bobrowski & Mead, L.L.C. of Millis, MA. Also present on the Applicant's behalf, is Frank Bicchieri of Hancock Associates, Marlborough, MA.

Attorney Talerman addressed the Board and gave an overview of list of items agreed to be addressed from the previous hearing of January 16, 2008:

- fencing/screening with abutting lumber yard (Holt Lumber)
- LDO status
- landscaping details
- access to gas line
- Miscellaneous questions/concerns regarding house numbers, mailboxes, lighting, hydrants, water, lighting poles.
- Communication with Board of Health regarding septic. Allot of work has been done and will continue to be done. Have meeting with Board of Health in March.

Frank Bicchieri of Hancock Associates addressed the Board as follows:

- Solicited information from Pepperell Fire Chief, Toby Tyler, regarding hydrant locations. Hydrants will be placed at the locations specified by Chief Tyler.
- Mailbox locations – Per discussions with Peter Shattuck, Highway Department and the Pepperell Post Office, mailboxes to be clustered in one central location.
- Light poles will be placed at location specified by Peter Shattuck, Highway Department.
- Revised landscaping plan per Peter Shattuck, Highway Department, and street trees to be located on private property.
- Fire Department requested that landscaping plan not impede access between buildings.

Board Member, Sherrill Rosoff, inquired if there would be central air-conditioning in the proposed homes. Attorney Talerman responded that it would be offered as an option/upgrade.

Sherrill Rosoff inquired if there will be privacy fencing between the proposed homes. Frank Bicchieri responded that there would not, per the Fire Department, as it would impede emergency access.

Discussion ensued regarding proposed road width. Town Counsel commented that the Applicant is not requesting any waivers from the Subdivision Rules and Regulations.

Frank Bicchieri resumed his presentation as follows:

- There will two water service lines coming in from the road that will be “t’d” off with separate meters. Discussion ensued regarding DEP requirements.
- Footprint of proposed septic system. 450 Gallons per day. Will be compliant with Board of Health and DEP regulations.

Town Counsel made the following comments:

- Would like to review draft of proposed decks for all units.
- Condition could be put in Decision limiting herbicide application that would run in perpetuity with each lot.

Sherrill Rosoff inquired if there could be deed restrictions regarding parking of recreational vehicles, boats, etc. Attorney Talerman responded that this had not been discussed and could be left to the Board’s discretion; however, Attorney Talerman expressed concern that this could limit marketability of units. Town Counsel responded that these types of restrictions are usually in projects that would have a homeowner’s association. Applicant, Kevin Slattery, expressed concern with this type of a restriction.

Discussion continued regarding recreational and unregistered vehicles, and whether the Board could/should impose conditions. Town Counsel commented that there is no reason to impose rules and regulations on this project that do not exist in other parts of Town. Attorney Talerman again commented that this type of restriction could limit marketability of the units.

Frank Bicchieri resumed his presentation as follows:

- Septic systems located under the driveways could have a riser/manhole cover to allow access for cleaning. Discussion ensued regarding septic system locations and trenching systems.

Applicant, Kevin Slattery, addressed the Board as follows:

- Presented exhibit, letter to Pat Holt, Holt Lumber, regarding fencing.
- Explained that he met with Pat Holt, and walked the site on two occasions, one of which included the fence company.

Town Counsel commented that they will need a zoning waiver, as proposed fence height is eight (8) feet, and zoning only allows six feet. This should be specifically referred to in the Decision. Attorney Talerman said he would do that.

Sherrill Rosoff inquired as to who would maintain the fencing. Kevin Slattery responded that fence maintenance would be the responsibility of the owner of each lot on which the fence is located.

Kevin Slattery resumed his presentation as follows:

- Status of gas service to property, i.e., natural gas vs. propane. Per Keyspan main gas line is 600 feet from the property line. Keyspan can extend to property line as long as not too costly.
- His landscape designer met with Ellen Fisher, Conservation Commission, regarding types of plantings they would prefer, and the proposed plantings are considerate of this.
- House number sizes.
- Types of porch lighting being proposed.

Attorney Talerman handed out a “Draft Decision” and strongly recommended that Memorandum of Understanding (MOU) be attached to Decision.

Discussion ensued regarding mailbox locations. Kevin Slattery commented that both Peter Shattuck and the Post Office were not enthused about individual mailboxes.

Clerk reads the following Exhibit into the record:

Letter from Civil Solutions, Inc. to the Board of Health, dated February 20, 2008

Discussion ensued among Board Members as to whether they have enough information to make a Decision on the Application.

Annette McLean motioned to close record and hearing. Sherrill Rosoff seconds. All concur.

Motion to Grant Comprehensive Permit:

Annette McLean motioned that the Board grant the relief requested, a Comprehensive Permit, for the proposed project, as shown on plans as amended through February 19, 2008, and as presented to the Board. The application is for a subdivision of 56 single family home lots. Fourteen of the units are affordable units. The original Application materials included detailed project plans and a so-called “project eligibility letter” from the Department of Housing and Community Development (“DHCD”). The Application also included a certain Memorandum of Understanding (MOU), which is a binding agreement by and between the Applicant and the Pepperell Board of Selectmen, dated August 27, 2007, as amended on August 28, 2007. Sherrill Rosoff seconds. All concur.

Motion to Grant Waivers:

Annette McLean motioned that the Board grant all waivers from local by-laws and regulations that may be necessary to construct the Project shown on the Plans. There shall be no waiver of building permit or inspectional fees. The Board’s grant of waivers is based upon the details shown in the Plans. Any subsequent revision to the Plans that require additional or more expansive waivers of any local by-laws or regulations must be approved by the Board in accordance with 760 CMR 31.03. Sherrill Rosoff seconds. All concur.

Attorney Talerman to email WORD file of draft decision to ZBA Assistant and Town Counsel. Town Counsel to review draft decision and make recommendations to Board.

8:15 P.M. Chairman announced that the second agenda item is a hearing regarding an application submitted for requesting an ADMINISTRATIVE APPEAL of the determination of the Building Inspector dated December 12, 2007, by Richard Baldwin and John Cirrone, direct abutters to the Nashoba Valley Garden Center, pursuant to Section 9223 of the Town of Pepperell Zoning By-Law, and M.G.L. Chapter 40A, Section 8. Subject property is located at 49 South Road, sometimes known and numbered as 47-53 South Road, Pepperell, MA, as shown on Assessor's Map 40 as Parcel 1.

Clerk reads legal notice into the record.

Applicants, John Cirrone and Richard Baldwin are present, and are being represented by Attorney Scott Fenton of Bowditch and Dewey, Worcester, MA.

Clerk reads letter from Attorney Fenton, dated February 26, 2008, requesting a continuation of this hearing, into the record.

Attorney Fenton addressed the Board and commented that the legal notice (Notice of Public Hearing) should be "Chapter 40A, Section 7." Attorney Fenton explained that he is requesting the continuation as it does not make sense to move forward until a Decision has been made by the Board on the Taylor Application for a Special Permit for 49 South Road.

Sherrill Rosoff motioned to continue hearing to April 9, 2008 at 7:00P.M. Annette McLean seconds. All concur. An Extension Agreement to continue the hearing to April 9, 2008 was signed by Attorney Fenton, Applicants and Board Members.

Old and New Business:

- **Work Session – Special Permit Decision – 49 South Road:**

Chair announced that the Board will now enter into a Work Session for the purpose of working on the writing of a Decision for a Special Permit regarding ZBA Application 07-391, submitted by Louise Taylor for the property located at 49 South Road. Applicant, Louise Taylor is present, and is being represented by Attorney Marc Joubert, who is also present. Also present, is Attorney Scott Fenton for the opponents.

- Board noted for the record, that one additional piece of correspondence was submitted to the Board, but must be rejected, as an exhibit cannot be admitted to the record as the hearing and record were previously closed.

Chair announced that the Board still needs more time to finalize/review Decision. ZBA Assistant will notify Attorney Joubert and Attorney Fenton, if another work session is scheduled.

Sherrill Rosoff motioned to adjourn the meeting. Annette McLean seconds. All concur.

Meeting Adjourned at 9:25P.M.

ZBA Minutes of February 27, 2008 filed with Town Clerk: April 28, 2008

Cheryl Lutcza
Assistant, Zoning Board of Appeals

cc: Town Clerk
Building Inspector
Robert Hanson, Town Administrator
ZBA Minutes file
ZBA Members
ZBA Application File - 07-396-Emerson Village-196 Nashua Road
ZBA Application File – 07-398-Baldwin&Cirrone-49 South Road
ZBA Application File – 07-391-Taylor-49 South Road