



Planning Department

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MEMORANDUM

To: Planning Board **Date:** January 30, 2009
From: Roland Bartl, AICP, Planning Director *R.B.*
Subject: **Revisit Discussion on Possible Village FAR Zoning Articles**

On January 6 the Board discussed a number of potential zoning changes and decided which of these to advance to a public hearing on February 17. On the day after the meeting we received the following message:

From: Joseph Levine [mailto:joseph@nesitedevelopment.com]
Sent: Wednesday, January 07, 2009 3:35 PM
To: Planning Board
Cc: Board of Selectmen
Subject: Ethics Violations at Last Night's Meeting

Dear Planning Board Members:

I attended the Planning Board's meeting on Tuesday, January 6, 2009, and am extremely disturbed and concerned as to the reason and basis of the discussion concerning possible zoning revisions to the floor area ratios ("FAR") in South Acton Village.

The only member of the Planning Board who proposed this change was Leigh Honn, who unequivocally said on multiple occasions that the reason she was doing so was to reduce the number of housing units that could be constructed at the Lazzaro property at 53 River Street, because it directly abuts her property. Mrs. Honn's improper participation was further exacerbated by the fact that her husband, David Honn, attended the Planning Board meeting and likewise demanded that the FAR be changed because of the Lazzaro property, which abuts the property that he and his wife own. No other member of the Planning Board voiced any support for considering changing the FAR. Therefore, but for Mr. and Mrs. Honn's participation at the Planning Board meeting, possible revisions to the FAR would not have been considered let alone scheduled for consideration at a public hearing to be held in February.

Although the Planning Board may not be aware, the Board of Selectmen at their November 3, 2008, meeting already ruled that Mr. Honn could not participate as a member of the HDC with respect to any consideration of 53 River Street because of his conflict of interest. Clearly, Mr. and Mrs. Honn's participation on the Planning Board in this matter is likewise inappropriate and flaunts the Board of Selectmen's directive. Mr. and Mrs. Honn's actions are especially disconcerting to me as I am involved with Lothrop Mill, LLC, developing other property on River Street to which the Honns' are abutters to abutters within 300 feet. I have objected to their same conduct at the HDC, but to no avail to date.

In view of the foregoing, it is respectfully requested that the actions the Planning Board took at its January 6, 2009, meeting regarding consideration of the FAR be rescinded.

Thank you.

Joseph Levine

We forwarded this to Town Counsel for further advice and evaluation. Following Town Counsel's advice, the Planning Board chairman replied to Mr. Levine as follows:

From: Greg Niemyski [mailto:walem@gmail.com]
Sent: Monday, January 19, 2009 1:09 PM
To: joseph@nesitedevelopment.com
Cc: Planning Board; Steve Ledoux; Lauren Rosenzweig
Subject: Alleged Ethics Violation

Dear Mr. Levine:

Town Council has reviewed your complaint of alleged ethics violations at the Planning Board's meeting of 1/6/09. Without conceding that there has been any ethics violation as you allege, the Planning Board will revisit this matter at its next meeting. At that time, I will ask for a discussion of setting a public hearing for possible warrant articles on the SAV and WAV FAR provisions, and I will ask Mrs. Honn to recuse herself from that discussion.

Greg Niemyski
Chairman, Acton Planning Board

In further clarification, Town Counsel recommends the following:

From: Stephen D. Anderson [mailto:SAnderson@AndersonKreiger.com]
Sent: Thursday, January 22, 2009 4:05 PM
To: Roland Bartl
Subject: Acton/GenPlBd: SAV and WAV FAR

Roland:

As we discussed today, please ask the Planning Board to discuss, without participation by Mrs. Davis-Honn, the proposal to hold a public hearing on potential zoning clarifications of or amendments to the SAV and WAV FAR provisions. An alleged ethics violation complaint has been made against the Board's prior vote to send certain amendments to a public hearing. To avoid any taint on the process, the matter should be considered ab initio.

As Town Counsel, I had originally initiated the request for a zoning amendment to clarify the Bylaw and resolve a dispute as to its proper interpretation. As Town Planner you had presented the Planning Board with a neutral slate of options for doing so. To preserve complete neutrality at the outset of the public hearing on the question of whether and how the SAV and WAV FAR provisions should be clarified or amended, I recommend that the Board re-vote to notice a public hearing on the zoning options previously brought to the Board's attention. After the Board hears from property owners in the districts and from the public at the hearing, the Board can then determine whether it will recommend any FAR amendment and, if so, what it will recommend. This procedure should moot any claim that the process has somehow been irrevocably tainted by the alleged violation of the state ethics act.

Steve.

Accordingly, this matter is on the February 3 agenda.

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