



RECEIVED
MAY 13 2010
TOWN CLERK, ACTON

**MINUTES OF THE HEARING FOR A FLOOD PLAIN
SPECIAL PERMIT, 50 POWDERMILL ROAD**

HEARING # 10-04

A public hearing of the Acton Board of Appeals was held in the Town Hall on Monday, April 12, 2010 at 7:15 pm on the petition of Powder Mill Properties, LLC for a **Special Permit** under Section 4.1.8 of the Zoning Bylaw to allow the **USE** with the Limits of the Floodway fringe. The petitioner is proposing to re-grade a portion of the parking lot at 50 Powder Mill Road resulting in a loss of an estimated 1,305 cubic feet (1.6% of available) Flood Storage. The property is located at 50 Powder Mill Road. Map J3-Parcel 49.

Present at the hearing was Ken Kozik, Chairman; Jon Wagner, Member; Adam Hoffman, Alternate; Scott Mutch, Assistant Town Planner and Zoning Enforcement Officer, Cheryl Frazier, Board of Appeals Secretary. Also present at the hearing were the petitioner, Leo Bertolami, his Engineer Mark Donohoe of Acton Survey and Engineering and Michael Berry, Structural Engineer.

Ken Kozik re-opened the hearing, noted the new contents in the file which included a memo from Stephen Anderson of Town Counsel.

Ken said the last time the Board met they had a non-significant calculation from the Engineer of 83,000 cubic feet of natural flood plain storage but at an earlier hearing the same Engineer for the same property came up with 59,000 cubic feet. The Board would like this issue cleared up.

Mark Donohoe said in order to satisfy the Board they would be willing to hire an independent engineer to determine which calculation is correct. Ken said he doesn't want them to have to spend more money for another review but at the same time they want the calculation to be correct. Mark Donohoe told the Board that he could send out a proposal to three independent engineers for their determination. Scott Mutch, Zoning Enforcement Officer informed the Board that the town would have to be the ones to bid out the job to three engineers for the peer review.

Ken Kozik asked the Board for a special request. He said he believes the best course of action for this developer is for the Board to accept his offer and let him pick his own engineer. Ken advised the petitioner to check with the Town Engineer so see if they approve of his choice.

Ken Kozik moved to continue Hearing #10-04 to 5:00 pm on Monday, May 17th, 2010 in Room 126 of the Town Hall. Adam made the motion to continue the hearing. The motion was seconded by Jon Wagner.

Respectfully submitted,



Cheryl Frazier
Secretary to the Board of Appeals



Ken Kozik
Chairman of the Board of Appeals