



Minutes of Meeting

DATE OCT. 28, 2004

October 12, 2004

Acton Memorial Library

Maura M. Haberman
ASST. TOWN CLERK, ACTON

Planning Board members Ms. Lauren Rosenzweig (Chairman), Mr. Hart Millett, Mr. Greg Niemyski, Mr. Christopher Schaffner, Mr. William King, Mr. Gary Sullivan, Associate Mr. Edmund Starzec and Associate Ruth Martin

were in attendance. Also present were Town Planner, Mr. Roland Bartl and Planning Board Secretary, Ms. Maura Haberman. Ms. Stacy Rogers was unable to attend.

Ms. Rosenzweig called the meeting to order at 7:32 p.m.

I. Citizens Concerns

There were no citizen concerns.

II. Consent Agenda

Minutes of 9/28/04 were approved unanimously as written.

III. Reports

CPC: Mr. Bartl reported there is an upcoming meeting on 10/14.

OLEC: Mr. Millett was unable to attend a meeting held on 10/5. OLEC is still awaiting sanctioning by the Board of Selectmen.

MAGIC: Mr. King informed the Board of a Legislative Breakfast to be held on 10/14.

EDC: Ms. Rosenzweig reported that they did not have a meeting due to a quorum issue. Ms. Rosenzweig would like to address the EDC regarding issues of car dealership inventory parking.

OTHER: To Live In Acton—The ACHC will spearhead a comprehensive policy following the start-up of the Willow Street project. There will not be a comprehensive policy in place prior to the "Woodlands at Laurel Hill" project. Judy Barrett will review the project for the ACHC.

III. Ft. Pond Brook Place, 40B Project

Ms. Rosenzweig motioned to move this agenda item before Zoning Hearing, seconded by Mr. Niemyski: Vote unanimous: 8-0.

Mr. Bartl prepared a draft memo for the Board of Appeals on behalf of the Planning Board for signature and vote. Highlighted items addressed were scheduling of affordable units and access to School Street sidewalk. Comments the Board would like added to the memo are:

- We strongly recommend Energy Star certified homes.
- Regulating hours for blasting (Item #16).

Mr. Niemyski moved to approve memo as amended, seconded by Mr. Millett. Vote unanimous: 6-0

V. Zoning Public Hearing for Special Town Meeting—Peet Land

Ms. Rosenzweig opened the Hearing at 7:47 p.m. and adjourned the hearing to Room 204, Town Hall, to reconvene in 10 minutes. Relocating this hearing allowed it to be televised and participation of both the Planning Board and Finance Committee. Selectman Walter Foster presented the re-zoning proposal. Ms. Yin Peet summarized her proposal of a sculpture park, artist studio and residence. Selectman Foster highlighted the following points: Peet's property is a landlocked parcel on 12± acres containing forest, wetlands and the quarry, it is zoned residential. The quarry is a prohibited use. The landswap and rezoning would give frontage to the Peet property and result in a net gain of 3½± acres of land for the Town.

There will be a right and access for Town use of the quarry's water for NARA. Construction must be started within 3 years or everything will revert to present configuration.

Ms. Rosenzweig opened the floor to questions and comments.

- Ann Chang, South Acton resident—questions. 1. How do you get water from quarry to NARA Pond? Selectman Foster: A small pump and pipe via the easement. 2. Is the quarry water quality good enough for swimming? Selectman Foster: Yes, water testing has been performed and water testing will

continue in the future. At this point the quality is good.

- James Norton, 119 Quarry Road—comment. His family has lived on road for over 40 years.. He feels it's a wonderful use of the quarry. He looks forward to his children participating in art classes.
- Candice Valente, 64 Quarry Road—comment. She is the closest property to Ms. Peet and felt she would be most affected. Her concern is parking, potential tennis courts, and increased traffic, teenage parties, and insurance costs to the Town. Ms. Valente is happy about Ms. Peet's proposal and thinks it's fantastic that Ms. Peet is going to clean up the quarry and add more culture to Acton. She is supportive of this article. Selectman Foster: Liability is what is driving this landswap. Currently there is a 12' high chain link fence broken down in a few places. The Town wouldn't want to own that liability. Ms. Peet would own the property, install a protective fence and will live there, greatly reducing the risk of accidents and drownings.
- Hung An, 5 Reeve Street—comment and question. He found information on the web and said this landswap sound goods, but questioned the Town's liability. What is the impact on conservation land? Selectman Foster: There is justification for conservation land. The land being swapped is agricultural, recreation and conservation. Uses could be for other municipal purposes, i.e. tennis courts, parking. The Town will get larger open space for trails. There will be no further development on land that remains with Peets. Town Counsel will put together documentation for airtight liability protection.
- Bob Guba, 376 Central Street—question. 1. Is all ARC zoned land conservation land under town jurisdiction? Mr. Bartl: No—the subject town land is "general municipal land" not "conservation land." 2. What about the 50' strip? Why not use the existing road? Selectman Foster: The strip give legal access to the backland. 3. Sound levels? Ms. Rosenzweig referred him to the Board of Health. Ms. Peet informed Mr. Guba that loud noise work will only be at her setup in Chelmsford. Chiseling will be inside the building. She stated that noise would be no more than mowing the yard once a week. She said no large trucks will be going in and out, as there is more than enough stone on-site for her lifetime. Ms. Peet said she will have a small bobcat on the site to move heavy stone.
- Charlie Richard, 15 Reeve Street—comment. Mr. Richard welcomes the idea of the art studio given the educational opportunities and recent commercial art entities in the community, but objects to studio placement in the middle of conservation land. He submitted a map to the Board showing parcel placement and trail pathways. He commented that the 2002 Open Space Plan deemed this a priority parcel for acquisition. Mr. Richard felt there was not enough time to prepare for this article. Selectman Foster objected to Mr. Richard's time complaint and informed the Board that Mr. Richard has been addressing this proposal before the Board of Selectmen over a year, representing North Acton Woods.
- John Ryder, FinCom Chair asked Selectman Foster if the land had been offered to the town. The land had never been offered to the town.
- Mr. Schaffner, Planning Board—question. Why is there a Special Town Meeting for this to be addressed? Selectman Foster reported that the Chair of the Board of Selectmen, Mr. Dore Hunter, wanted to go back to a regular Fall Town Meeting for zoning articles.
- A resident on Captain Handley Rd.—comment. The sculptures are not meant for small children. Selectman Foster: There will be a protective fence for people who don't want to see the sculptures.
- Joseph Liu, 3 Reeve Street—question, comment. 1. What is the location of the sculpture park? Selectman Foster showed on the map the location which is in the center with a green fence surrounding the sculpture park. 2. Mr. Liu respects Ms. Peet's art but feels that Acton residents can go to an Art Museum. He submitted to the Board a sample of Ms. Peet's artwork from her website.
- Ms. Peet was asked what will happen to the land if the proposal doesn't go through. Ms. Peet said it would be hard for her to say what she would do with this land, except to make it beautiful.
- Mr. Ryder, FinCom, questioning the potential for a 40B. Mr. Bartl can't say how a Court could rule on the question of access. At the moment, status is not known of the right of way on Parcel 17 leading to the Peet's land. He also noted the possible discovery of a surveying error affecting the North Acton Woods PCRC land on the border of the Peet land, which could bring the North Acton Woods condo in non-compliance with zoning.
- Charlie Kadlec, 19 Paul Revere Road, comment and question. 1. Mr. Kadlec disagrees that this has been a well-known project and has yet to receive a copy of the Warrant and that there are a lot of questions yet to be answered. He is concerned with increased town liability in connection with an easement for quarry water use. 2. Mr. Kadlec questioned when Ms. Peet purchased land a year ago, did she know it was unbuildable with current zoning—buying a landlocked parcel? Ms. Peet said she

knew that she would have to seek legal assistance. Selectman Foster was dismayed that some residents haven't received the Warrant. He reported this proposal has been addressed for over a year on agendas, meetings, and articles in the Beacon.

- Jim Walker, 20 Alexandra Way—question. Addressed to FinCom regarding tax assessment and bankruptcy. Ms. Roeber, FinCom, answered how the proposal would affect the Town's tax base.
- Belle Choate, 225 Newtown Road—comment. Ms. Choate was part of the group which created the original list of vacant parcels as part of the Open Space and Recreation Plan. The Peet property was not a priority. She stated that North Acton Village (NAV) Plan is the last Village Plan to be done. She wondered how it can be determined that this is consistent with the Master Plan before studying what land uses would be appropriate for NAV.
- Min Jiang, 19 Alexandra Way—questions. 1. Is the town in a rush to swap the land? 2. Why can't we just wait until the next Annual Town Meeting? 3. How do we justify the activities on that piece of land? 4. Who has legal leverage to prohibit quarry operations? Selectman Foster responded that nothing else can go there except for what the Peet's have proposed. This is a 501(C)(3) a non-profit educational corporation. There may be incidental sales of artwork.
- Mr. King, Planning Board, commented and questioned Selectman Foster regarding the process of this public hearing and whether there were careful studies of land use? Was the Planning Board, Conservation Commission or Finance Committee brought into executive session regarding the land swap? Selectman Foster: They were not involved in the Executive Sessions regarding the land swap. The Board of Selectmen after four months of open fact finding meetings went into Executive Session since this is a land swap. There has been good public process on this. The Acton Boxboro Cultural Committee had public hearings about this well over eight months ago in favor of the Peet's. Mr. Foster also reported that the North Acton Woods group refused to meet with Ms. Peet. The Land Stewardship Committee had met.
- Ms. Peet reported that she will be having an informational meeting tomorrow night (10/13) at the Acton Memorial Library.

Mr. Schaffner moved to close the Planning Board Public Hearing, seconded by Mr. Sullivan. Mr. King believes there is not enough information to close the hearing. Motion to close public hearing: Vote 7-1.

Planning Board deliberations to determine Town Meeting decision: The Board could choose between three options: recommend, not recommend, and vote to take no position. Mr. Niemyski prefers to not take action nor make a recommendation since this was not a Planning Board issue, rather the Board just held a hearing requirement for Town Meeting. Mr. Schaffner had the same concerns and also reservation, and takes it on faith that this is a good thing for the town. He would vote to take this to Town Meeting. Ms. Rosenzweig has seen things get done legally on undeveloped land. She feels this swap creates continuous conservation land and Peet's proposal is well buffered. She is supportive of this proposal for Town Meeting.

Mr. Niemyski motioned to make no recommendation on the articles to Town Meeting, seconded by Mr. King: Vote 3-3. The Motion does not pass.

Ms. Rosenzweig motioned to recommend the articles to Town Meeting, seconded by Mr. Sullivan: Vote 3-3. The Motion does not pass.

The meeting adjourned at 10:02 p.m.