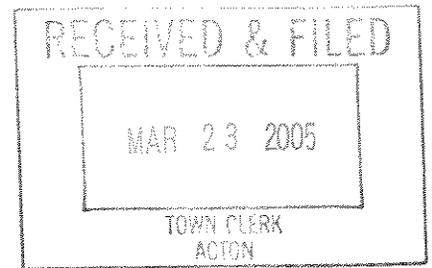


ACTON PLANNING BOARD

Minutes of Meeting
February 22, 2005
Acton Memorial Library



Planning Board members Ms. Lauren Rosenzweig (Chairman), Mr. Greg Niemyski (Vice Chairman), Mr. Christopher Schaffner (Clerk), Ms. Stacy Rogers, Mr. William King, and associates Mr. Edmund Starzec and Ms. Ruth Martin were in attendance. Also present were Town Planner, Mr. Roland Bartl and Assistant Planner, Kristin Alexander. Absent were Mr. Gary Sullivan and associate Ms. Barbara Epstein.

Ms. Rosenzweig called the meeting to order at 7:35 PM.

I. Citizens Concerns

Ms. Carol Holley, representing Acton Citizens for Environmental Safety (ACES), presented a letter to the Board from ACES concerning Quail Ridge Country Club (QRCC) environmental audits. Ms. Holley stated that QRCC can still adhere to some of Audubon International's Signature Program standards even though they cannot join that Program. ACES feels that the following issues should be monitored closely: Integrated pest management, irrigation, and construction of the pesticide storage and maintenance building. Ms. Holley also stated that the table provided in the Turfgrass Environmental Consultants' letter to Mr. Jay Peabody dated 1/22/05 was comparing QRCC's projects to Audubon International Cooperative Sanctuary Program standards, not to Audubon International Signature Program standards.

II. Consent Agenda – Minutes 2/8/05

The minutes of 2/8/05 were approved unanimously.

III. Reports

CPC: Ms. Rogers reported that the Habitat for Humanity proposal was not recommended for lack of a specific location and absence of other funding sources. The CPC asked Habitat to try again next year.

EDC: Ms. Rosenzweig said the EDC prioritized objectives for the coming year. The objectives included a lot of monitoring for example with the transfer station and Chapter 40Bs. The EDC is going to try to get a baseline and history of commercial properties in town, their values, etc., and see if EDC efforts have made a difference or how they could make a difference.

MAGIC: Mr. King reported that only four communities attended the last MAGIC meeting. The following issues were discussed: TIP program, State excess land, the MBTA red subway line going to Westford some day, mutual aid agreements, and Dore' Hunter's letter on the potential CPA trust funds raid. The next MAGIC meeting is 3/15. Mr. King distributed information from the MAGIC to Mr. Bartl to review.

IV. Ellsworth Village – Public Hearing Continuation from 1/25/05 – 7:45 PM

Mr. George Dimakaracos of Stamski & McNary, Inc. represented the applicant and presented the following information based on Planning Board comments and questions:

- The 60 unit Chapter 40B alternative plan.
- A letter from Robert Moran explaining that the owner of 121 Great Road wasn't interested in allowing access to Ellsworth Village through his property.
- A sketch showing potential access to 133 Great Road designed to comply with the Subdivision Rules and Regulations (Rules) as much as possible. The sketch shows a 20' between Great Road and Ellsworth Village; 12.5% grade at Great road, retaining walls, several drainage features, and significant blasting. The Rules recommend an 8% max. grade. The road would create another major intersection on Great Road near Concord Road: the Rules speak against it. The Towns policy is to reduce, not increase, curb cuts on major thoroughfares. If it was the second access road to the project it would encourage cut through traffic in the neighborhood. Right turn only restrictions onto Great Rd. would be difficult to enforce. However, the access could be used for emergency vehicles, in which case it would be propose with grass pavers.

- Highlights of a conversation with Mr. Tom Tidman, Natural Resources Director, where Mr. Tidman said that a boardwalk may be possible over the wetlands toward Wetherbee Plaza II to provide a pedestrian connection to East Acton Village.
- A summary of the project's traffic study. The project would generate a fairly small number of vehicular trips, the level of service at both intersections would remain at "A", and the proposed Pope Road improvements will help site distance. The engineer who conducted the study felt that even though the project doesn't warrant stop signs, adding them will help protect pedestrians.
- The applicant's attorney, Mr. Lou Levine, and Town Counsel have agreed that Brabrook Road access to the project is legally feasible. If the Planning Board approved the project, the applicant would need to ask the Selectmen for permission to do work within the street easement. The same would apply if the project was applied for under Chapter 40B.
- The existing cul-de-sac could be returned to its natural state. A new turn around would have to be constructed in a location to be determined.
- A walkway could be brought to and over the abutting Town-owned land to Brookside Shops.

Citizen comments

- Mr. Graham Knowland, 29 Esterbrook Road, stated that the following items on the plan are either incomplete or missing: common land calculations, drainage calculations, wetlands calculations, landscape plans, and project scale information. He said that the Planning Board cannot arrive at the required special permit determinations without that information. He also asked that the Planning Board continue the hearing until all the information is reviewed.
- Mr. Henry "Chip" Chapin, 4 Brabrook Road, said that if water lines come down Brabrook Road from the project, Brabrook Road should be completely repaved. Mr. Chapin also stated that the Pope and Brabrook Roads intersection is dangerous, especially turning left from Brabrook onto Pope and during bad weather conditions. Mr. Chapin said that half of the front lawn at 42 Pope Road would need to be removed to improve the intersection.
- Mr. Tom Lemire, 5 Brabrook Road, stated that the new turnaround location needs to be closely considered. Mr. Lemire said that the following information is missing from the plan: the water stubs to Flagg Road, the intermittent stream, the proposed emergency access. He said that the Great Road access sketch plan shows that access through 133 Great Road is very viable and much better avoiding wetlands. Mr. Lemire said that before decisions are made, the missing information should be included on the plan and reviewed.

Additional Planning Board comments

- Mr. King disclosed, under MA Chapter 268A, that he lived in Mr. Jeanson's (the applicant's) home in the past but did not leave under bad terms.
- Ms. Rosenzweig asked Mr. Bartl for accident reports on the Pope/Brabrook Roads intersection.
- Ms. Rosenzweig asked Mr. Knowland to submit his comments in writing.

Mr. Schaffner moved to continue the public hearing to March 22, 2005 at 7:45 PM; 2nd; all in favor.

V. Proposed Zoning Articles – Public Hearing – 8:30 PM

Ms. Rosenzweig opened the public hearing.

Amateur Radio Installation Article

Citizen Comments

- Mr. C.J. Beanland, 17 Deacon Hunt Drive, described his background and experience. He is a licensed amateur radio tower operator in the United States and Great Britain and has a 100' high tower which is a very reasonable height. Mr. Beanland explained that amateur radio towers are governed by federal regulation PRB-1 and it overrides the height limits and dish antenna restriction proposed in the warrant article. Mr. Beanland said antennas need to be clearly above trees and structures. Mr. Beanland added that high towers probably expose people to less radiation, so maybe it would be best to propose a minimum tower height requirement. Mr. Beanland referred the Planning Board to his 2/12/05 letter.
- Ms. Rebecca Harvey, 7 Duston Lane, stated she is a ham operator and the proposed warrant

article seems reasonable to most hams as written but probably wouldn't hold up to federal law PRB-1 unless there is an exception to allow additional heights to towers. Ms. Harvey also said that she thinks the article should say that the tower "base" should be set back 30'.

- Mr. Robert Guba, 376 Central Street, stated he is a ham operator. Mr. Guba said he objects to the warrant article restrictions on tower height, dishes, and number of towers. Mr. Guba described that a lot of hams like operating several types of facilities, are interested in VHS, experiment with microwaves, and height is very important. Mr. Guba explained that the size of the lot and the extension of the guys create a defacto tower height limit.
- Mr. Ray Bintliff, 2 Powder Horn Lane, said the proposed warrant article appears fair and balanced; however, it should include an exception process. Mr. Bintliff asked what "inclusive of all antennas" means in section 3.8.3.6 of the warrant article. Mr. Bartl replied that the intent was that the term "tower" was to include all antennas on the tower.
- Mr. John McGovern, 6 Winter Street, referred the Planning Board to the Chedester v. Whately court case. He said the case ruled that there should be no absolute height zoning requirement absent a negotiation process and no limit on the number of towers. Mr. McGovern said that the current zoning bylaw states that nothing in the bylaw should prohibit an antenna used solely by ham operator, which addresses an area that the Federal Communications Commission (FCC) does have some control over. Mr. McGovern also informed the Board that when amateur radio towers are used for civil emergency service, they might be operated from a remote location by a licensed operator and that an amateur radio tower could be the only use on a property rather than accessory. Mr. McGovern said there are now discussions in the amateur radio industry of digital antenna networks that would need high heights for high frequencies. Mr. McGovern stated that he has counted 160 hams in Acton. Mr. McGovern added that he thinks as currently drafted, the warrant article has many land mines and may need to go back to the drawing board.
- Mr. Tom Hotaling, 12 Tuttle Drive, said it would concern him if towers had to be approved through a special permit process because it opens up the proposed tower to more scrutiny.
- Mr. George Harlem, 33 Old Village Road, stated that many residents in Acton have association restrictions that prohibit towers for radio use and asked if the proposed bylaw overrides them. Mr. Bartl replied that a private covenant would supercede a Town bylaw.
- John, Acorn Park Drive, said he lives in a place with restrictive covenants. He said that a tower height limit of 90' to 100' would be good, and that some antennas need support on each end so the warrant article should allow up to a maximum of two towers.
- The hams in the audience replied no when the Planning Board asked them if they've ever received any complaints about their amateur radio towers.

No one was in attendance for the housekeeping warrant articles.

Mr. Schaffner moved to close the hearing on all articles. Mr. King 2nd. Motion passed unanimously.

Planning Board comments

- Ms. Rosenzweig said that in areas with small lots, like in West Acton, an amateur radio tower might have an impact on the neighbors. She expressed her comfort with the proposed height limit and would add a special permit for special cases, so that the warrant article balances law with neighborhood protection. Ms. Rosenzweig said the Town should take into consideration health, safety, and aesthetics when reviewing proposed towers to help protect townspeople.
- Mr. Schaffner said that Acton has existing amateur radio towers and the proposed bylaw would not seem to allow them. He stated that he doesn't see any public good in having regulations for amateur radio towers, and that the law doesn't allow the Town to balance tower operations against public concerns.
- Ms. Martin stated that she is more concerned about number of towers per lot than tower height.
- Ms. Rogers said she favored an article with a lot ratio: if it is a certain size lot, then the operator needs to talk to the neighbors. Ms. Rogers stated that she thinks if the warrant article contains no regulations on amateur radio towers, it will not receive the 2/3^{rds} vote needed to pass at Town

Meeting. Ms. Rogers said that if Town Meeting doesn't pass an article without restrictions, it will come back to the Planning Board to work on. Ms. Rogers asked what recourse neighbors have if they're unhappy with a tower. Mr. Bartl responded that there would be the courts.

- Mr. Niemyski said that he doesn't believe extra regulation is needed for amateur radio towers. Mr. Niemyski stated that if a neighbor has a problem with an amateur radio tower it is a civil matter between the two. Mr. Niemyski asked if one could provide amateur radio towers with the appropriate exemptions to avoid the height limit issue.

Mr. Niemyski moved to provide zoning exemptions for amateur radio towers and otherwise craft an article that provides minimal regulation in compliance with federal law. Mr. Schaffner 2nd. All, except Lauren Rosenzweig, voted in favor.

Zoning Bylaw and Zoning Map Housekeeping Articles

Mr. Bartl explained the articles and Town Counsels' recommendations.

Mr. Niemyski moved that Town Counsels' recommendations be included in the draft housekeeping warrant articles. Mr. Schaffner 2nd, and all voted in favor.

Ms. Rosenzweig moved that the Planning Board recommend to the Selectmen that the amateur radio tower article not be on consent at Town Meeting. No 2nd. Motion failed.

Mr. Schaffner moved to recommended all articles as discussed and amended tonight to Town Meeting. Mr. Niemyski 2nd. Motion passed 4-1.

The meeting adjourned at 10:05 PM.