

LUNENBURG PLANNING BOARD

TOWN OF LUNENBURG

Emerick R. Bakaysa, Chair
Joanna L. Bilotta, Vice-Chair
Thomas W. Bodkin, Jr., Clk.
Robert J. Saiia, Mbr.
Nathan J. Lockwood, Mbr.
Marion M. Benson, Planning Director



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Minutes
Executive Session
January 10, 2011

Handwritten signatures:
EUB A
NA
RTJ

Chair requested executive session at 6:30 PM for telephonic conference with Town Counsel regarding discussion of O'Brien Homes litigation. Motion, Ms. Bilotta, Second, Mr. Bodkin Jr., roll call vote, Ms. Bilotta, aye; Mr. Saiia, aye; Mr. Lockwood, aye; Mr. Bodkin Jr., aye; Mr. Bakaysa, aye. Also present, Marion Benson, Planning Director.

Attorney Joel Bard of Kopelman and Paige responded to questions regarding two subjects; 1) The Litigation with Aro Estates, O'Brien Homes, and, 2) the requests for extending development approvals.

In the first issue, Aro Estates, O'Brien Homes, Board members were seeking answers to the present status and a method of expediting the dismissal of the remaining two Counts. Further inquiry was the status of prior dimensional requirements. This question relates to the possibility of the developer placing only the Levite property before the Board and what dimensional regulation would be in effect. Although Levite has the lesser acreage, the submittal would still get the benefit of the freeze according to Town Counsel. Attorney Bard related that another telephone conference will take place on January 31st. Mr. O'Brien had related that they were working on a new plan in early December. Neither Counsel nor the Board has received a plan. The Town was awarded Judgment that Section 5.6. of the Bylaw is a valid bylaw; however, final judgment on that and all Counts has not been made. Count 1 was the appeal of the basic denial by the Planning Board and Count 3 was on the accusation of the process and treatment of applicant throughout the review. Noted previously and at this conference was that Count 3 would not be pursued. The Board discussed avenues to address this issue to move it to final judgment.

The second issue relates to extending development approvals. Attorney Bard noted that requests for extensions should always come from the developer. The developer should present reason for request. Attorney Bard suggests open-end extensions so the developer can get the necessary work in. Attorney Bard also recommends that if it is a time-line extension, 45 days prior to the extension expiration the Planning Office should advise the developer of the final date of the extension. All extensions shall be filed with the Town Clerk's office.

Following the telephonic conference, the Planning Board held discussion of the direction they wished to pursue regarding the litigation with Aro Estates, O'Brien Homes. The Board voted 5-0 to request Town Counsel to enter a motion for final judgment on all three Counts of the Litigation by January 31, 2011.

Chair request Motion to adjourn to General Session at 8:30 PM, Motion, Ms. Bilotta, Second, Mr. Lockwood, Motion passed.