

# **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  
March 21, 2011

ERB  
R.J.S.  
N.J.L.  
M.M.B.

Chair called for Motion to enter Executive Session at 8:15 PM for purpose of telephone conference with Attorney Joel Bard, Town Counsel, regarding litigation of O'Brien Homes Inc. v. Planning Board and Town of Lunenburg.

Motion made, Ms. Bilotta, Second, Mr. Saiia, roll call vote, Mr. Bakaysa, aye; Ms. Bilotta, aye; Mr. Lockwood, aye; Mr. Saiia, aye; Mr. Bodkin Jr., aye.

Chair brought forth Attorney Bard, Town Counsel's request on behalf of applicant's attorney Diane Tillotson that the Status Conference with the Judge be postponed. This was based on the approval to proceed from the Planning Board with the "conceptual" plan presented on behalf of Mr. O'Brien. The Board's general reaction was negative. Chair pointed out deficiencies that would not meet Section 5.6. such as no scale, not enough acreage, and street frontage issues on the plan. The biggest concern is the applicant's statement that once the conceptual was approved as a Definitive, his intent was further to subdivide several of the five acres parcels. Ms. Bilotta, Mr. Lockwood and Mr. Bodkin Jr. spoke against the whole concept of detaining the call to Final Judgment and granting the applicant more time.

A conference call was made to Attorney Bard. Discussions ensued with Board members questioning Attorney Bard on his position to postpone Final Judgment at the Judge's Conference. Attorney Bard pointed out that the intent of the applicant is to Appeal if not granted his wishes. It was pointed out the Appeals Court will give no weight to the judgment of the Trial Court so the process would start over and the judgment of the validity of Section 5.6. would again be put to the test.

It was noted that the Board could lose on appeal. The additional expense was noted. Mr. Bodkin Jr. addressed the issue. Also was noted what could or could not be entered before the Court; for example, any conversations between attorneys. Ms. Bilotta inquired if future submittal of plans needed to be presented to Town Counsel once judgment has been made. Mr. Bard responded no.

The conclusion of the conference was that the Lunenburg Planning Board vote was to proceed for final judgment and give no direct response to the conceptual plan; however, the Board expected Town Counsel to point out the deficiencies in the conceptual plan and make clear that the Board has waited long enough for a reasonable submittal from Mr. O'Brien.

Chair called for adjournment of Executive Session. Motion, Ms. Bilotta, Second, Mr. Lockwood, roll call vote, Mr. Bakaysa, aye; Ms. Bilotta, aye; Mr. Lockwood, aye; Mr. Saiia, aye; Mr. Bodkin Jr., aye. Adjourned 9:20 PM.