LUNENBURG PLANNING BOARD
TOWN OF LUNENBURG

Emerick R. Bakaysa, Chair
Joanna L. Bilotta-Simeone, Vice-Chair
Thomas W. Bodkin, Jr., Clk.
Robert J. Saiia, Mbr.
Nathan J. Lockwood, Mbr.
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Minutes
Executive Session
September 26, 2011

Vice Chair called for Motion to enter Executive Session at 8:45 PM for discussion of litigation of O'Brien Homes v. Planning Board and the Town of Lunenburg. Motion, Mr. Lockwood, Second, Mr. Saiia, roll call vote, Ms. Bilotta, aye; Mr. Saiia, aye; Mr. Lockwood, aye, Mr. Bodkin Jr., aye.
Absent: Chair Bakaysa

Planning Director Benson related telephone conference between Town Counsel Attorney Joel Bard, Planning Board Chair Emerick (Toby) Bakaysa, and herself as Director. Attorney Bard related his conversations with Mr. O'Brien's Attorney, Diane Tillotson. The litigation has an extension until September 27, 2011. Reference was made that Attorney Tillotson was looking for an extension until December 15, 2011 to present a plan that would be in compliance with Lunenburg Zoning Bylaw, Section 5.6. (with 50% of open space). Percolation tests are scheduled for October 3, 2011.

Mr. O'Brien plans on constructing in stages. Mr. Bakaysa informed Attorney Bard that he expected a complete plan for the whole project; not just individual plans for stages. The plan would include number of units. Submitted plan would go through a complete review.

Attorney Bard noted that Mr. O'Brien still has a legitimate Purchase and Sale. Apparently Mr. O'Brien, in his lawsuit with Aro, made a price adjustment down approximately ½ million. He had to pay a certain amount up front and space out additional payments.

Further discussion was on another Appeal. If Mr. O'Brien submitted a brief for an Appeal, it would be costly. Second Appeals are difficult to get, therefore the applicant is looking for the Planning Board to agree to an extended date of December 15, 2011. Mr. Bakaysa would agree to that date provided Mr. Bakaysa's expectations listed above were realized. Further, he wished to take the issue before the Board on September 26, 2011.

In Mr. Bakaysa's absence, Ms. Benson related the above. Vice Chair Bilotta-Simeone asked for discussion on the issue. The Board voted 4-0 to deny any extension (December 15, 2011). Ms. Benson was directed to relay to Attorney Bard to strongly oppose any request and do so in writing. Further, the Board noted that a previous inquiry was requested from Attorney Bard regarding cost of an Appeal. Noted was that Attorney Bard previously referred to cost as "brushing off the summary brief". Ms. Benson was instructed to relate to Attorney Bard that any cost in excess of $5,000.00, the Board was to be informed immediately.

Motion to adjourn Executive Session, Mr. Bodkin Jr., Second, Mr. Saiia, adjourned 9:15 PM.