

# **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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*JB*  
*R.S.*  
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Minutes  
Executive Session  
October 25, 2010

Vice Chair requested executive session at 7:50 PM for discussion of O'Brien Homes litigation. Motion, Mr. Saiia, Second, Mr. Lockwood. Roll Call vote to proceed, Ms. Bilotta, aye, Mr. Saiia, aye, Mr. Lockwood, aye.  
Absent: Emerick R. Bakaysa, Thomas W. Bodkin Jr.

Discussion: Director presented letter dated October 6, 2010 from Attorney Joel Bard regarding litigation with O'Brien Homes, Inc. Attorney Bard noted that the action is a three-count complaint. Count I is an appeal of the Planning Board's denial pursuant to the Subdivision Control Law G.L. c.41 §81BB. Count II challenges the legality of Section 5.6. of the Zoning Bylaw. Count III alleges that the Planning Board acted in bad faith in denying O'Brien Homes proposed subdivision. The Court upheld the validity of Section 5.6. of the Town's Bylaws. Judgment remains for Count I and Count III.

O'Brien Homes proposed in concept a settlement which would involve dismissing the remaining two counts of the Complaint and proposed a new concept for the subdivision of Aro Estates (NOTED IN THE LETTER). At a status conference it was reported that O'Brien Homes was preparing a settlement proposal but it has not yet been submitted to the Town. The letter noted time elements such as Permit Session. The final note was that O'Brien Homes will finalize a plan to present to the Town along with an offer of settlement. The Court will then schedule a telephonic follow-up status conference for November 19, 2010.

Comments followed the reading of the correspondence by Board members present. One question posed was why Count I and Count III still remained if Count II upheld the bylaw. Members also expressed concern over the reasoning for the continuation of the litigation.

Motion made to adjourn at 8:05 PM, Mr. Lockwood, Second, Mr. Saiia, roll call vote, Ms. Bilotta, aye, Mr. Saiia, aye, Mr. Lockwood, aye.