

LUNENBURG PLANNING BOARD

TOWN OF LUNENBURG

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



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Minutes
Public Hearing
Aro Estates, Howard Street
January 30, 2013

Meeting Posted: Yes

Time: 6:30 PM

Place: Town Hall, 17 Main Street, Lunenburg, MA 01462

Present: Emerick R. Bakaysa, Chair, Joanna L. Bilotta, Vice Chair, Thomas W. Bodkin, Jr., Nathan J. Lockwood, Marion M. Benson, Planning Director

Also Present: Town Counsel, Joel Bard

Chair opened the ten consecutive Public Hearings with the reading of the legal notice advertised in the Sentinel & Enterprise January 16 and January 23, 2013. The Hearings were to hear and discuss applications for ten subdivisions totaling 135 lots. Aro Estates 1 (one) containing eighteen lots, Aro Estates 2 (two) containing nineteen lots, Aro Estates 3 (three) containing seventeen lots, Aro Estates 4 (four) containing twenty-one lots, Aro Estates 5 (five) containing twenty lots, Aro Estates 6 (six) containing sixteen lots, Aro Estates 7 (seven) containing five lots, Aro Estates 8 (eight) containing twelve lots, Aro Estates 9 (nine) containing five lots, and Aro Estates 10 (ten) containing two lots. These ten subdivisions are located on the northerly side of Howard Street in the northwest portion of Lunenburg encompassing four parcels. Parcel addresses are 384 Howard Street, Map 17, Parcel 19, owner O'Brien Homes, 18 Cassimere Street, Andover, MA; 460 Howard Street, Map 6, Parcel 25, owner 460 Howard Street Realty Trust, 18 Cassimere Street, Andover, MA; 318 Howard Street, Map 17, Parcel 20, owners John & Judith Aro, 318 Howard Street, Lunenburg, MA; and 400 Howard Street, Map 6, Parcel 24, owners John & Judith Aro, 318 Howard Street, Lunenburg, MA. Applicant is O'Brien Homes, Inc., 18 Cassimere Street, Andover, MA.

Representing the applicant/developer Kevin O'Brien, O'Brien Homes, Inc. were Attorney Mark Johnson, 12 Chestnut Street, Andover, MA, Wesley Flis, Whitman & Bingham Associates, project engineer, and Brian Milisci, Principal, Whitman & Bingham Associates.

Mr. Flis made presentation for Mr. O'Brien. Aro Estates 1 - 18 lots, 24.6 acres. Individual septic systems for each lot. Initial subdivisions showed wells, but it was noted at the January 24th Tech Meeting that there is now enough water supply in the Town to service the subdivisions. Mr. O'Brien will work with Water District regarding same. Cisterns for fire protection. Hydrants if water brought into subdivisions.

Reviewing Engineer for the Town was Jesse Johnson, David Ross Associates. Aro 1 - Comments are general for the whole. Drainage calculations were submitted as a complete set for the ten subdivisions on January 2, 2013. Reviewed as submitted with 40,000 square foot lots. Reviewed from standpoint of consecutive subdivisions. Can 10 be a subdivision? Does not create frontage. ANR lot? Possibility 5.6. would still apply. Focused review on drainage and public safety. The abutter on left-hand side as access road comes in off Howard Street has their driveway and yard going up to a stone wall. Stone wall follows along left/west side of road. There could possibly be an adverse possession issue. Could impact access. Does Mr. O'Brien comply with 6.4.3.10. of the Zoning Bylaw (minimum distance from driveway to intersection).

If soil testing is provided to J. Johnson, can be used as review for detention basins. Mr. O'Brien consistent on groundwater levels. Based his drainage calculations on full site build-out. J. Johnson had no issue with the manner in which the drainage calculations were compiled.

Aro Estates 2 – 24.3 acres, 19 lots. No comments.

Mr. O'Brien has no issue conditioning sequence of subdivision building with Board.

Traffic Impact Assessment from 2008 being updated as there are now two egress points instead of three.

Aro Estates 3 – 17.7 acres, 17 lots. No comments.

Aro Estates 4 – 23.9 acres, 21 lots. Requires two wetland crossings, will have second egress off Howard Street. (See 4.), 5.) and 14.) of Whitman & Bingham Associates letter dated January 30, 2013.)

Aro Estates 5 – 19.8 acres, 20 lots. No comments.

Review was clarified to note that it is based on septic and wells.

Aro Estates 6 – 20.5 acres, 16 lots. Waiver will be requested for dead end road. Aro 6 and Aro 7 will not have a connected roadway due to wetlands.

J. Johnson recommended with Mr. O'Brien's requesting of a waiver for cul-de-sac length, Board direct questions to public safety depts.

Aro Estates 7 – 8 acres, 5 lots. No comments.

Aro Estates 8 – 23.4 acres, 12 lots. J. Johnson's comment is same as above for Aro Estates 6.

Aro Estates 9 – 9.6 acres, 5 lots. No comment.

Aro Estates 10 – 22.7 acres, 2 lots. J. Johnson feels should be an ANR. Mr. Bakaysa concurs. Has a common driveway – would not be a subdivision.

Mr. Flis went through January 30, 2013 Whitman & Bingham letter, which was in response to January 24, 2013 review letter of David Ross Associates.

Brought attention to 7.). 4.5.1. states the "Planning Board may require....". At the Tech Meeting, Mr. O'Brien noted he would be willing to work with the Town to provide for parks if the Board sees necessary, but may not be able to provide 10% of each subdivision. At the Tech Meeting Mr. O'Brien proposed possibly doing neighborhood common playground areas with easements over properties.

J. Johnson has received soil testing information – asked for additional plans that better show existing topography. Looking for relative to drainage- level of groundwater, potential for ledge, how that might affect construction. Groundwater concern is if you have shallow groundwater you would not want basins constructed in groundwater as it would potentially be infiltrating groundwater and not have space available for incoming stormwater. Some of proposed drainage infrastructure could pose a long-term maintenance problem. Asking for more information on construction methodology and long-term prevention of groundwater intrusion. Bulk geared to project as it sits – can it be legally presented as shown.

Opened to public comment-

No proponents

Opponents-

Dave Finch, 537 Howard Street- Questions regarding lot frontage. Howard Street residents would like to see fewer houses. Has concern with water.

Ms. Benson requested Whitman & Bingham Associates provide the Planning Office with a plan depicting the ten subdivisions, number of lots in each, and acreage of each subdivision.

Rennie Shattuck, 396 Howard Street- Abuts Subdivision 1. Groundwater runoff problems on Howard Street. Should not be a subdivision built – should be conservation land.

Gary Lahti, 440 Howard Street- Abuts Subdivision 2. Concerns with drainage.

J. Johnson addressed overall drainage – with drainage calculation an applicant usually picks sensitive areas, wetlands and abutting properties for summation points for pre- and post- development. Calculations as submitted picked too broad an area for those summation points. He is asking it be fine-tuned. Once that takes place, he will review to ensure they meet standard engineering practice and State guidelines.

Dan Brackett, 815 New West Townsend Road- Abuts 4 and 3. Asked if there was advantage to breaking up into ten subdivisions. Felt they should be looked at individually without temporary roads.

Town Counsel, Attorney Joel Bard was of the opinion that it was presented this way to circumvent a Zoning Bylaw that says you cannot subdivide more than 25 acres of land without taking other steps. To evade that, Mr. O'Brien presented a number of subdivisions smaller than 25 acres in hopes of making an argument that it satisfies 5.6. of the Zoning Bylaw. Attorney Bard noted that the Board could require a bond for each subdivision in the event that if not completed, the bond could be used to convert the temporary road into a permanent road. Each subdivision has to be looked at as if it would stand on its own.

Mr. Bakaysa noted individual findings and directives will be done for each subdivision.

Attorney Bard brought up the issue of a timeline; noting that at his urging, the Planning Board set this Hearing date prior to all documentation being received. Due to the fact that this property had been the site of litigation previously, and that a large amount of the necessary documentation had been received in the Planning Office, Attorney Bard wanted the Board to be cautious and commence the hearing process. The legal issue that it raises for Attorney Bard is the Board's deadline for a decision. He noted for the public's benefit, once an application has been filed, the Board has 135 days to hold a hearing, render a decision, and file that decision with the Town Clerk. When all information is received at the same time, it is easy to know when the 135 days begin. In this case, Attorney Bard is requesting Mr. O'Brien and his attorney set a target deadline for the Board's decision. Attorney Bard suggests late April. He is requesting a clear date. If it needs to be pushed out, the Town will come back to Mr. O'Brien. Attorney Johnson responded he will discuss with Mr. O'Brien and determine what documents came in and what is missing. Attorney Johnson requested what additional information is needed. Attorney Bard reiterated that the Board started the Hearing at his urging, even though the Board felt it did not have all the necessary documentation. Attorney Johnson responded he will discuss with Attorney Bard. Attorney Bard wanted to make it clear that he is requesting a letter from Mr. O'Brien, through Attorney Johnson, to the Town Clerk granting Board extension to (date).

Ms. Benson requested clarification from Attorney Bard that the anticipated April date included only Planning Board information; neither the Board of Health nor Conservation Commission. He noted that Board of Health and Conservation Commission requirements are separate.

Mr. Bakaysa asked J. Johnson if he had all he needed at this time to satisfy Planning Board requirements for a solid peer review. J. Johnson noted as of getting the soil testing and the last plans, he has everything he needs for a first-round formal response. He noted his October 22nd letter which stated section by section all deficiencies relative to what is required by the Board for a formal submission. J. Johnson suggested the Planning Office go through Whitman & Bingham Associates December 7th response letter to determine if all items they note have been submitted, have been submitted. Possibly have applicant update letter? Mr. O'Brien noted he previously requested that the Board go through his December 7th letter.

Mr. Bakaysa inquired of Ms. Benson if Mr. O'Brien owes anything financial to the Planning Office, which would be considered part of the application. Ms. Benson noted breakdown of review fees. Mr. O'Brien gave verbal approval for payment of the two current Ross invoices.

Attorney Johnson requested list of missing items. Attorney Bard noted items he was aware of— list of waiver requests, revised traffic study, more detailed drainage analysis. J. Johnson noted the drainage analysis would come back in the revisions. He has everything necessary from the first review aspect; now need items for noted deficiencies.

Mr. O'Brien noted submission of a set of plans at a Planning Board meeting on September 10th. Plans are dated April 2012 and Whitman & Bingham Associates had been discussing with Ms. Benson since April 2012. Mr. O'Brien was prepared for an April/May 2012 submission. Mr. Milisci discussed with Ms. Benson the extent of the paper load that the submittal required (Ms. Benson noted that Mr. Milisci stated he would need a pickup truck). Ms. Benson recommended one set of plans from Whitman & Bingham Associates be submitted to be reviewed for compliance, saving a submittal of ten complete sets of plans until that review was accomplished. Mr. O'Brien was of the opinion that everything came to a standstill due to Ms. Benson's medical situation and he feels he is being penalized. Wants to know what date does the clock start ticking?

J. Johnson noted drainage analysis dated December 21, 2012. He was unable to commence any review until drainage calculations were submitted. Suggested to the Board this could be considered the formal submittal date.

Motion to continue the Public Hearing to February 13, 2013, Mr. Bodkin Jr., Second, Ms. Bilotta-Simeone. Roll Call Vote, Mr. Lockwood, aye; Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone, aye; Mr. Bakaysa, aye.

Motion to adjourn, Ms. Bilotta-Simeone Second, Mr. Bodkin Jr. Adjourned 9:40 PM.

Attachments

1. Letter dated January 24, 2013, David E. Ross Associates Inc., re Definitive Subdivision Plan, Aro Estates 1-10, Howard Street, Lunenburg
2. Letter dated January 30, 2013, Whitman & Bingham Associates, re Aro Estates 1-10, Definitive Subdivision Review, Howard Street, Lunenburg, MA