

INITIALS _____

**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 (Continuation)
Aro Estates, Howard Street
April 13, 2013

Meeting Posted: Yes
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462
Time: 9:00 AM

Present: Emerick R. Bakaysa, Joanna L. Bilotta-Simeone, Thomas W. Bodkin Jr., Nathan J. Lockwood (arrived late), Marion M. Benson

Also present: Town Counsel Attorney Brian Winner

Chair Bakaysa opened the hearing continuation for Aro Estates. The initial hearing was held on January 30, 2013, continuations held on February 13th, February 27th; March 4th, March 16th, March 23rd, April 3rd, April 10th, and continued to this date.

Revised Plans and drainage calculations submitted by the Applicant for review by Jesse Johnson.

As a result of Jesse Johnson's April 9, 2013 review letter, Wesley Flis, Whitman & Bingham Associates (representing the Applicant), noted changes to the Plans since the April 10, 2013 continuation.

Basin grading revised to allow for ten feet of access, stormwater Basin "T" enlarged, access to stormwater basins, showing traffic mitigation measures on Plans, intersection signage, parking detail to access Town Forest.

Mr. Bakaysa asked for update on affordable housing component under Section 4.1. of the Zoning Bylaw. Attorney Mark Johnson's interpretation is that it does not apply to a conventional subdivision and he feels it cannot be imposed by the Town.

Board is in receipt of April 10, 2013 updated letter from Denis Maher, subject: Recharge Availability for Aro Estates, Lunenburg, MA.

Mr. O'Brien updated the Board on driveway issue with Mr. and Mrs. Shattuck.

The Board went over the draft Decision prepared by Town Counsel. Mr. Bakaysa noted each subdivision will have its own Decision. He noted Decision content to those in attendance: Background and Procedural History, Waivers of Rules and Regulations of the Planning Board, Reasons for Approval/Disapproval. At this point Mr. Bakaysa requested Board discussion regarding each individual subdivision. He opined that Aro Estates 1 complies with the Zoning Bylaw that was in place at the time of submittal with the exception of stormwater drainage not being self-contained within Aro Estates 1. There is still the issue of whether or not a zoning freeze applies. Attorney Winner responded that it continues to be a legal question with an answer not yet determined; the Board has to determine whether or not the zoning freeze continues. Board discussion ensued as to whether the 40,000 or 80,000 square foot zoning applied. Mr. Lockwood opined that the Applicant needs to comply with the current Zoning Bylaw of 80,000 square feet. Ms. Bilotta-Simeone agrees. She opined that the Plan which froze the 40,000 was removed in Land Court. That Plan was denied and no longer exists. Mr. Bodkin Jr. opined that the zoning was frozen at 40,000

with the 2008 submittal. Mr. Bakaysa opined that the present submittal circumvents the original submittal and still does not comply with Section 5.6. of the Bylaw and that the 80,000 applies. He noted to the Board that if they view this new submittal as a single subdivision, it does not comply with Section 5.6. of the Zoning Bylaw. Mr. Bakaysa feels the project needs to be looked at in its entirety; Mr. Bodkin Jr. disagrees. Mr. Bodkin Jr. feels that any decisions made on these plans are outside of whether or not it violates Section 5.6. of the Zoning Bylaw. While an individual subdivision may be in compliance with Section 5.6. of the Zoning Bylaw, the overall subdivision is not. Mr. Bodkin Jr. opined that the zoning freeze is still in place. Attorney Winner noted the end-line of the freeze needs to be determined. There is no case law noting a reasonable timeline.

Board continued discussion of draft Decision. The Applicant does not comply with Section 5.2.3.1. of the Zoning Bylaw, entitled Stream Setbacks. Mr. Flis noted they do not intend to ask for either a waiver or variance with the Zoning Board of Appeals from the Board of Health request. It is not part of their proposal in front of the Planning Board.

The Applicant has to comply with Section 4.1.2. and 4.1.2.1. of the Zoning Bylaw regarding low or moderate income housing. Attorney Johnson, representing the Applicant, opined that the Building Official/Zoning Officer determines whether or not that Section of the Zoning Bylaw applies in his position as a zoning enforcement official.

Board of Health recommendations will be incorporated in the Decision. Mr. Flis noted the Applicant has provided information to the Board of Health regarding soil testing as required by Section 3.4.5.b. of the Rules and Regulations. Ms. Benson to verify with Board of Health.

The updated traffic study incorporated both West Townsend Road and New West Townsend Road (both ends of Howard Street). Mr. Flis noted that the draft Decision, pg. 4, paragraph 3., subparagraph 3 noted a "...75-foot dimension...". Mr. Flis suggested more clarity per Abend Associates Traffic Review noting subdivisions should be provided with a 75 foot leveling area. This applies to Aro Estates 4. Mr. Lockwood does not feel the subdivisions comply with Section 4.2.1.5. of the Rules and Regulations, Adequate Access from Public Way.

Applicant has met with the Fire Chief. The Fire Chief did not have an issue with cisterns, but would prefer hydrants. The Applicant chooses to go with cisterns due to the excessive cost of betterment fees to the residents with the installation of a water main and hydrants.

Stormwater Management and Drainage. Board members opined that systems should be self-contained to each subdivision. A single system has been proposed to serve Aro Estates 1 – 10. Mr. O'Brien inquired of the Board if the Rules and Regulations state that a system has to be self-contained; if so, he feels he should have been informed of this earlier in the process. He will do easements if necessary. He requests if anything is still missing from the submittal, that the Board inform him of such. Attorney Johnson believes the Plans show easements; he will verify. Attorney Winner notes the Board will have to decide whether to approve or deny in light of the integrated way it is presented.

Mr. Lockwood stated the applicant must set aside 10% of each subdivision for a park. Mr. Flis noted Section 4.5.1. of the Rules and Regulations state, "...the Planning Board **may** (emphasis added)...require the plan to show a park...". Small playground areas, with easements, are planned for residents of the subdivisions. Prospective homebuyers will be aware of this. Mr. Lockwood is not inclined to approve either less than 10% or easements. Mr. Bakaysa noted the Board requested Mr. O'Brien to provide park area, but did not specify to what extent. The Applicant has provided for six parks which will be maintained by a homeowners' association. The homeowners' association will also maintain the detention ponds. Both Mr. Bakaysa and Ms. Benson noted that the Board has not required parks in other Lunenburg subdivisions. The Board did not reach a decision regarding parks.

Mr. Shattuck, 396 Howard Street- commented regarding the possibility of a park that contains a playground.

Due to Board member commitments, it was decided to continue the Hearing. Motion made to continue the Hearing, Mr. Bodkin Jr., Second, Mr. Lockwood, Roll Call Vote, Mr. Lockwood, aye; Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone aye; Mr. Bakaysa, aye. Ms. Bilotta-Simeone, Motion to continue Hearing to April 22nd, 9:00 AM, Town Hall, Second, Mr. Bodkin Jr. Roll Call Vote, Mr. Lockwood, aye; Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone aye; Mr. Bakaysa, aye
Hearing recessed at 12:23 PM.