

LUNENBURG PLANNING BOARD ***TOWN OF LUNENBURG***

Emerick R. Bakaysa, Chair
James A. Halloran, Vice-Chair
Joanna L. Bilotta, Clk.
Robert J. Saiia, Mbr.
Thomas W. Bodkin, Jr. Mbr.
Marion M. Benson, Planning Director



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Public Hearing Minutes
Aro Estates (cont'd)
Howard Street
May 11, 2009

Meeting Posted: Yes

Time: 6:30 PM

Place: Town Hall, Lunenburg, MA 01462

Present: Emerick R. Bakaysa, Chair, James A. Halloran, Joanna L. Bilotta, Robert J. Saiia, Thomas W. Bodkin, Jr., Marion M. Benson, Planning Director

Chair opened the Public Hearing Continuation with the reading of the legal advertisement published in the Sentinel and Enterprise on May 4, 2009. The Hearing Continuation was to hear and discuss an application for Approval of a 135-lot Definitive Subdivision Plan entitled Aro Estates, located on the northerly side of Howard Street in the northwest portion of Lunenburg consisting of four parcels. Owners are 460 Howard Street Realty Trust, 460 Howard Street, Lunenburg, MA, John and Judith Aro, 318 Howard Street, Lunenburg, MA and O'Brien Houses, 18 Cassimere Street, Andover, MA. Applicant is O'Brien Homes, Inc., 18 Cassimere Street, Andover, MA.

Chair introduced Board members, Planning Director, Review Counsel from Kopelman & Paige, and Recording Secretary. As this was a continuation, Chair informed the audience that it would be limited to new issues; issues brought out at the initial Hearing would not be rehashed. Chair noted abutter concerns from the initial Hearing as follows: Water/Septic/Wells- Effect on water supply with additional 135 houses, was Aquifer study done, runoff increase, increased flow in the three main waterways, additional water runoff as a result of raised septic systems, and well contamination by new septics. Traffic/Roads- New roads too close to abutting properties, condition of Howard Street – cannot handle increased traffic, N. W. Townsend Road – narrow and poor condition, would the new roads be public or private, what would be the width of the new roads? Utilities- would they be underground, would they be upgraded? Other concerns are- provisions for parks or greenways, safety of the neighborhood children in relation to traffic, mitigation, bedroom count, impact on Town services, access to trails, building timeline, Hazardous waste study on farm, fire management , sidewalks proposed?

The Applicant, O'Brien Homes, was represented by Brian Milisci, Whitman & Bingham Associates, 510 Mechanic Street, Leominster, MA. Mr. Milisci noted Whitman & Bingham Technical Review letter dated May 8, 2009, submitted to the Planning Office on May 8, 2009. This is a response letter on information received to date. He inquired if Chair wished him to read into record as he did not know whether or not Board members had reviewed letter. Planning Director Marion Benson noted that each Board member was in possession of the Technical Review letter as of this date. Mr. Milisci also noted that the Plan had not been revised and there have been no new studies. The Chair asked him to go through the letter for the benefit of the audience. *Item 1), first paragraph follows: the applicant understands that the plans do not meet the requirements of Section 5.6. of the Lunenburg Protective Bylaw – Cluster Development. Section 5.6. requires that 50% of a proposed subdivision on a tract of land of 25 acres or greater in the Residence A, Residence B or Outlying Zoning Districts is to be set aside as open space. In exchange for the open space the minimum lot area is decreased to 30,000 ft in the Residence A and Outlying Zoning Districts and 60,000 ft in the Residence B Zoning District, effectively mandating a form of cluster development. The proposed "Aro Estates" lies within the Outlying Zoning District. The minimum lot area requirement in the Outlying District is 40,000 ft. The proposed project includes the construction of a 4-bedroom single-family dwelling on each lot to be serviced by individual septic systems and wells. Massachusetts DEP Title V Regulations (310 CMR 15.000) requires that any lot within a nitrogen sensitive area is to provide 10,000 ft of land area per 110 gallons per day (GPD) of wastewater flow. The proposed lots qualify as being in a nitrogen sensitive area due to the fact that each lot is to be serviced by individual septic systems and wells. The Title V wastewater flow rate per bedroom is 110 GPD. Therefore, each proposed lot has to have a minimum lot area requirement of 40,000 ft to meet the Title V Regulations, rendering the "benefit" of section 5.6. unavailable to the applicant.*

Chair asked for any comments from the Board.

Mr. Bodkin inquired that the bylaw 5.6.3. states the minimum is a 30,000 square foot that a cluster development could contain 40,000 square foot lots, the applicant would then be able to have both house and sewer system on lot. Mr. Milisci responded yes.

Ms. Bilotta asked if the submission complies with Section 5.6.3. She did not see any reason to go through the remaining paragraphs if the submission did not meet Section 5.6.

Mr. Milisci responded they did answer that in the Technical Review; the submission did not meet Section 5.6.3.

Mr. Halloran had no comments.

Mr. Saiia had not comments.

Chair noted that Section 5.6. Cluster Development was originally brought forth by the Planning Board to the Town to help preserve the rural character of the community. Anything developed in excess of 25 acres would preserve 50% for open space. There has been no change in the intent. Number 1. of The Directives for Preparation of a Definitive Plan of Aro Estates, Received and Filed with the Lunenburg Town Clerk August 12, 2008, states: *"The Applicant shall have a plan in the definitive stage reviewed under Protective Bylaw of the Town of Lunenburg, Section 5.6. Cluster Development."* Chair concurred with Ms. Bilotta, that the Applicant has not yet met the intent of Section 5.6. and sees no reason to go any further into the seven page Technical Review submitted by the Applicant. Mr. O'Brien had an opportunity to come forth at this continuation with a revised plan and chose not to.

Mr. O'Brien, 18 Cassimere Street, Andover, MA- Believed he did not have to follow Section 5.6. as the Board approved the Preliminary Plan last summer. There were four months when they weren't part of the discussions. He came in to a meeting with an ANR lot, the plan was discussed, the Board said they would have a meeting and get back to him, and at the next Board meeting it was approved. The Approval says that the Board approved that Plan pending compliance with 5.6.; frankly the Board should have disapproved the Plan so there would not be any format to follow. That's the reason he had his engineers draw up the Plan the way it is.

Chair responded that specific Directives were given that the Definitive Plan had to comply with 5.6.

Mr. O'Brien noted things would have been clearer if he was able to be at the meetings. The Board told him it would get back to him. When the Board got back to him it was to say that the Preliminary Plan had been approved, but he had to follow 5.6.

Ms. Bilotta noted that Mr. O'Brien stated the Board approved his plan without 5.6.3.. She then noted that he did get the Directive in writing that the Plan was approved based on the Directive that he follow 5.6.3. Mr. O'Brien responded that he brought in a conventional plan on the Preliminary. The Board approved a conventional plan. Mr. Bodkin noted to the audience that a Preliminary Plan Approval locks in the zoning for that parcel of land. The property is rural in nature and it seems that the Applicant's strategy has been to get off on the wrong foot. Mr. Bodkin agrees with the Chair in terms of the bylaw. One hundred thirty five (135) units will generate probably 1,000 vehicular trips per day. The road supported a chicken farm for the better part of its existence. Any developer looking to develop in Lunenburg needs to look around the Town and see the makeup of the Town. Mr. O'Brien may come back another day with a plan. We want to preserve the rural character of our Town.

Chair asked for comments from the public.

Mike Sauvageau, 191 Elmwood Road- Noted that he was both the Building Official and the Zoning Officer for the Town of Lunenburg. He fully concurred with Attorney Bodkin. Mr. Sauvageau is the Zoning Officer in the Town and Attorney Bodkin is absolutely right, The Board gave the Applicant a gift by approving the Preliminary Plan to freeze the zoning. It sounds like Mr. O'Brien had the Directive. Mr. Sauvageau referred to his review letter of March 23, 2009: *At the Planning Board's request, I have reviewed the Definitive Subdivision Plan "Aro Estates" dated February 19, 2009. Please be advised that the subdivision plan referenced above is in violation of "The Protective By-Law of the Town of Lunenburg" Section 5.6. Cluster Development amended through May 3, 2008. More specifically, the subdivision violates Section 5.6.3: Intensity.* His opinion is that they're

over-designing what they are allowed to build. Mr. O'Brien designed this project for failure. If someone came before Mr. Sauvageau with a 40,000 sq ft lot in Residence A and they need 60,000 sq ft to do a two-family, but ask for a building permit to

put a two-family on a 40,000 sq ft lot, he'd have to deny it. Attorney Bodkin is correct. (Note- Chair wanted to make it perfectly clear that Mr. Bodkin was present as Thomas Bodkin, citizen of Lunenburg, not providing any legal advice to the Board. Mr. Sauvageau noted he was only addressing him by his title out of respect and not in his capacity of an attorney. He knows that this evening Attorney Bodkin is a citizen and member of the Planning Board.) Mr. Sauvageau also noted the Applicant is over-designing what he's able to design.

Ms. Bilotta made Motion to postpone the hearing on Aro Estates. Mr. Bodkin, Second. All aye.

Ms. Benson asked Chair if the Board was taking a vote on Aro Estates during the Hearing or at the Board meeting immediately following the Hearing. Chair responded- at the meeting.

Rennie Shattuck, 396 Howard Street- Asked if there would be a speaking for/against session. He wished to make the following comments- "I bought land and built in Lunenburg because I wanted woods, flowers, and animals to go with the quiet of being in the countryside. You have bought land, Mr. O'Brien, and technically you can do most anything you wish with your land, though it may not fit with the area and is not what the people in the area desire. Those of us who are already residents have tried to maintain a quiet, countryside atmosphere. We have ideals about how we want to live. Beside buying land and stating very simply a strong desire to make money, what have you to offer as a potential neighbor? Is it the potential 135 homes with 135 wells and 135 septic systems that will deny us of the wooded land, that will possibly cause us to go without water in our wells or polluted wetlands from excessive septic sewage? What about the excessive noise from heavy equipment and large trucks on our roads during development of the land? What about the influx of people which could mean building a new school and increasing the need for other Town services? Will your development be the only place where taxes are raised to pay for these things? As a good neighbor, why are you putting one of your roads to the development in my front yard and flatly stating no change to the Plan can be made? Where are my rights? As a neighbor, what concern have you stated or shown about those of us who already live here except to 'make money'? With an attitude like that as a neighbor, who wants you as a neighbor?"

Gary Entwistle, 259 Howard Street- He has lived in Lunenburg for four years. As a former Zoning Board of Appeals member in Townsend, he has seen situations like this before. Sometimes financial greed overrides. When he lived in Townsend, he was the sixth house in a 125-house development. Eighteen-wheelers came up the road every thirty seconds for the first few years. The road got to the point that water lines going to 15 of the houses were damaged by heavy trucks on the road. Howard Street cannot handle it; it already has cracks. If the Plan was approved, there would be construction vehicles, supply vehicles, the road isn't wide enough and cannot be widened. The Town doesn't need a development that may not be able to sell. The economy is too bad. In a former career he sold chemicals to egg farms; the soil will be dangerous.

Chair asked Ms. Bilotta to repeat her previous Motion. Ms. Bilotta made Motion to end the public discussion for Aro Estates. Second, Mr. Saiia. Chair asked for any discussion.

Mr. Bodkin noted this Plan is not right for the Town of Lunenburg. Mr. O'Brien had the right to submit this plan, which was judged solely on its merits. At some time in the future he may submit another plan, which will be reviewed on its own merits.

Town Counsel, Attorney McKertich asked if the Motion was to end the session on this Hearing or to close the Public Hearing. Ms. Bilotta noted it was to close Public Hearing. No more comments. All aye.

Public Hearing for Aro Estates closed at 7:06 PM.

Audio recording on file in Planning Office.