

LUNENBURG PLANNING BOARD

TOWN OF LUNENBURG

Damon McQuaid, Chair
Matthew Allison, Vice-Chair
Kenneth Chenis, Clk.
Gregory Bittner, Mbr.
David Prokowiew, Mbr.



Tel: (978) 582-4147 ext 5
Fax: (978) 582-4353
960 Massachusetts Avenue
Lunenburg, MA 01462

Adam R. Burney
Land Use Director

Minutes Executive Session August 24, 2015

Meeting Posted: Yes
Place: Town Hall, 17 Main Street, Lunenburg, MA 01462
Time: 9:37 PM

Present: Damon McQuaid, Matthew Allison, Kenneth Chenis, Gregory Bittner, David Prokowiew, Adam R. Burney

Motion to adjourn Regular Session to go into Executive Session not to return to Regular Session, M. Allison, Second, K. Chenis, all aye.

Board entered into Executive Session for discussion of O'Brien Homes, Inc. v the Town of Lunenburg. A. Burney went over the Executive Session process for the benefit of new Board members, e.g., confidential material with no discussion outside of executive session, minutes will not be sent via electronic mail, etc.

A. Burney presented the Board with correspondence dated August 17, 2015 from Town Counsel. The correspondence recapped for the Board members that in July 2013 Town officials learned that O'Brien Homes was performing site preparation work and in October 2013 that work was confirmed by aerial photographs of the site and a field survey. This disclosed that O'Brien Homes had cleared and rough graded nearly all of the proposed subdivision ways.

The Town filed an enforcement action seeking to forbid O'Brien Homes from building out or otherwise preparing the subdivision ways until approvals had issued. On August 10, 2015 Land Court allowed O'Brien Homes Motion for Summary Judgment, finding that "the work undertaken thus far...did not violate the Planning Board's Rules and Regulations as that work did not constitute the preparation for or construction of ways".

Town Counsel has not yet received the Court's written ruling. Once that has been received, the Town will have thirty days to file an appeal. The Board determined that the decision whether or not to appeal would not be made until they knew what the Court's decision was based on.

A. Burney will contact Town Counsel to find out what the downfalls would be of filing an appeal.

There was Board discussion of holding an executive session with Town Counsel at the September 14, 2015 Board meeting.

Town Counsel correspondence also noted a pre-trial conference date of January 7, 2016 and trial dates of January 20, 21, and 22, 2016.

ADJOURNED: 10:10 PM

Documents used at meeting:
Letter, Kopelman and Paige, P.C., dated August 17, 2015, CONFIDENTIAL

Minutes/executive 2015/executive 08.24.15