

MINUTES OF THE PUBLIC HEARING CONTINUATION
SUDBURY BOARD OF APPEALS
DECEMBER 5, 2007

The Board consisted of:

Jonathan G. Gossels, Acting Chairman
Elizabeth A. Taylor, Clerk
Nancy G. Rubenstein
Stephen A. Garanin
Jonas D.L. McCray, Alternate

Also: Jody Kablack, Planning Director

For the Applicant:

Robert Engler, Geoff Engler, Development Consultants
Kevin Duffy, Steven Duffy, Duffy Properties
Paul Finger, Engineer

The hearing was reconvened by the Acting Chairman, Mr. Gossels. The Board was in receipt of the following:

- Work session minutes for Nov. 15
- Narrative Appraisal prepared by Prospectus, LLC
- Email dated November 28, 2007 from Kevin Duffy agreeing to widening easement

Ms. Kablack provided a summary of the November 15th work session. At that session ZBA member Jeffrey Klofft identified 4 items for discussion: the Prospectus appraisal, cell tower revenue, affordable unit distribution and mitigation.

Ms. Kablack said one item which was discussed but not resolved was the difference between the two appraisals. (\$3M vs. \$2.75M). She said Mr. Klofft had suggested splitting the difference in value for the pro forma.

With regard to the cell tower, it is the applicant's intention to submit all rights to the condominium association. A suggestion was made to put these funds into a Reserve Account particularly since the septic system is not new and those revenues would be in place up front for any repairs, etc.

As to unit distribution, Ms. Kablack said it was felt there was too much concentration of affordables in the larger building and the developer was asked to not have them together.

Geoff Engler said they were agreeable to switching those units.

Regarding mitigation, Ms. Kablack said the developer agreed to the sixth buy-down unit at a cost of \$150K. Also agreed to was a contribution of \$3K per market unit, up to \$45K, for traffic mitigation for the Sudbury center project.

Also asked for was a 10-foot easement along Hudson Road for widening. (See email in documents list)

Ms. Kablack felt the end result of that work session was a fair compromise. She noted a request was made for the developer to bring to this hearing an enlarged plan of a typical landscape scenario for the larger building.

Mr. Gossels asked the applicants whether they had any comments with regard to the working session.

Geoff Engler wanted to be sure that the mitigation be specific to traffic improvements.

With regard to the appraisal, Robert Engler felt that in the interest of fairness, the difference in value should be split.

As to the cell tower revenue, Kevin Duffy said he was not opposed to a condition that income be directed towards a reserve account, but would be opposed to a specific reserve; i.e., septic.

Discussion followed among the Board on the appraisal value with the consensus being to split the difference.

Mr. Gossels expressed his disappointment with the report provided by Prospectus, LLC and his overall dissatisfaction with that firm. He felt the report was not realistic. He said he was more amenable to splitting the difference since it seems the developer has made some significant accommodations to the town in the work sessions.

Board members were in agreement for the lease revenue to go into a reserve account and not be designated for a specific item.

Ms. Kablack said she wasn't advocating that it go into septic – just that there may be some maintenance items sooner rather than later.

Discussion followed on what happens after lease expires, with the general consensus being that it will be up to the condominium association.

Mr. Gossels said at a prior hearing there was some discussion as to whether there could be a cell tower on a residential building.

Ms. Kablack said it is permitted in the zone which is Limited Business.

Steven Duffy said the antennas are encased in a false chimney on the roof. This fact will be disclosed to prospective buyers.

Ms. Kablack asked if the applicants had brought a landscape plan this evening. They had not. Ms. Kablack said the Board will want to review a plan. In previous 40Bs the details on the plan were subject to approval of the Board.

Mr. Gossels asked if all the buildings will be being sprinklered. Ms. Kablack said they would.

Mr. Gossels said in the past the Board has asked that maintenance of the sprinklers be the responsibility of the condominium association. He explained that the concern is that if something goes wrong with one of the subsidized units, they may not be in a position to properly maintain those sprinklers. Therefore, the Board would prefer that responsibility be with the condominium association.

Ms. Kablack said that will be included as a condition.

Robert Engler said they will live with that condition.

With regard to the Conservation Commission, Mr. Finger said they have received an Order of Conditions. A copy will be forwarded to the Board.

Mr. Gossels asked if there were there any changes with regard to what was previously discussed.

Mr. Finger replied that the drainage system for treating the town's catch basin has been and the water will be recharged on site. He said the Town Engineer has reviewed it and is comfortable with it.

Mr. Gossels said he had concerns with regard to screening on the southwest corner because there is very little vegetation between Peakham Road and the site. He would want to see a final landscape plan that addresses that screening.

Mr. Gossels said the Board wanted to be sure that external siding and trim would be a durable material.

Ms. Kablack said there is a list of materials. She said the Historic Districts Commission (HDC) had approved it early on in the process but wanted to see a final materials list. The list will be subject to final HDC approval.

In response to Mr. Gossels question regarding the next step, Ms. Kablack said she has begun to look at the conditions for a draft decision. However, the landscape plan is needed as well as a current waiver list. In addition, no soil testing has been done and that will be a condition in the decision.

Mr. Gossels said at an earlier hearing Ms. Kablack had raised an issue with regard to parking for access to a future rail trail.

Ms. Kablack said the site is too dense and it is not feasible to pursue access. In addition, she said there is other town-owned property behind Ti-Sales which has direct access onto the rail trail.

Ms. Kablack will prepare a draft for the next meeting. The hearing was continued to January 14th, 7:30PM.

Jonathan G. Gossels, Acting Chairman

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