



**TOWN OF BROOKFIELD
OFFICE OF THE PLANNING BOARD
6 Central Street
Brookfield, MA 01506**

Minutes
Wednesday, August 6, 2008
Town Hall

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BOARD OF SELECTMEN

Members Present: Bruce Clarke
Daniel Leahy
Mary T. O'Connell
Absent: Sharon Mahoney
Kermit Eaton

The meeting was called to order at 6:30 p.m.

Police Chief Ackerman did not appear before the Planning Board due to illness. Zoning Enforcement Officer Mr. Simeone did appear but since the Police Chief was ill, and the intentions were to have both present at the same time to discuss the unregistered vehicle bylaw, we will reschedule at a later date.

Minutes:

Ms. Stawski informed the Planning Board that the name of Mr. Butler was incorrectly listed instead of Mr. Zucco under the Quayside Shores hearing and needs to be removed and replaced by Mr. Zucco for the following months, Jan. 2, March 19, May 7, and June 4, 2008.

Motion made by Mr. Clarke, 2nd by Ms. Mahoney to amend the minutes as noted. All in favor.

July 2, 2008: motion made to approve the minutes by Mr. Clarke, 2nd by Ms. Mahoney. All in favor.

July 9, 2008: motion made to approve the minutes by Mr. Leahy, 2nd by Mr. Eaton. All in favor.

Review of funds in Quayside Shores, Legal Fees. The Board received an additional check in the amount of \$2,000 on August 1, 2008. The current funds available: \$2532.50 with two outstanding bills, June \$551.86, July \$1485.00, leaving a balance of \$495.64.

Ms. Jessica Cantwell. 86 Rice Corner Road

Ms. Cantwell had questions on how she could subdivide her property in the Rural Residential area. Currently the lot size is 2 acres. It has a house and formerly had a trailer. The trailer is no longer there and she would like to subdivide into two lots and build on a portion of the land. The Board looked at the plan and Ms. O'Connell informed her she didn't have enough land to conform to the zoning requirement of 70,000 square feet per lot. Ms. Cantwell asked about hardship and informed her that is for land topography and this situation did not fall under that category. Ms. O'Connell stated she should meet with the Zoning Enforcement Officer. Board members suggested she check with her abutters to see if anyone could sell her a small piece of land to increase her lot to 140,000 square feet so that it could be divided.

Continuation Public Hearing: Quayside Shores Special Permit Application

Ms. O'Connell opened the hearing at 7:15 p.m.

Present were Mr. Michael Loin of Bertin Engineering, Mr. Donald Zucco of Zucco Construction, Attorney Mr. Edmond Neal III representing Zucco Construction, Mr. Cliff Fontaine representing Quayside Shores Condo Association. Residents of the condo units and abutters of the property were present at the meeting.

Ms. O'Connell then announced that the Planning Board is currently waiting for a letter from Town Counsel on questions that were presented by Attorney Mr. Neal III in a letter that was given to the Board at the July 2 meeting and mailed to Town Counsel. The issue pertains to the applicability of the zoning change concerning multifamily lot requirements that was approved by the Town in May 2008. Legal fees are paid by the developer and the Planning Board needs funds in order to pay the outstanding bills due. There are not enough funds in the account of Quayside Shores to pay Town Counsel Kopelman & Paige. The account balance as of June 30 was \$532.50. A bill for the amount of \$551.86 for June, and a bill for the amount of \$1485.00 the end of June was received July 13. A check was received in the amount of \$2,000 August 1, 2008 to cover the bills, which leaves a balance of \$495.64. There will be more bills outstanding for the month of July and for August that will be coming.

Mr. Leahy voiced his opinion that it has been a month since our last meeting and nothing has happened. He asked Attorney Neal, if he had contacted Town Counsel Kopelman & Paige. He stated they were playing phone tag, and he left 3 messages. Mr. Leahy stated that is not acceptable.

Attorney Neal said the discussion of funds should not take up time at a special permit hearing. Mr. Loin of Bertin Engineering stated the fees are excessive.

Ms. Mahoney asked what are the Board rules on fees. Ms. O'Connell stated it is the applicant's responsibility to pay the fees when the Board needs to seek legal advice from Town Counsel. This is in the Board's Rules and Regulations. Ms. O'Connell stated the bills include telephone conversations, emails, legal research, development of a response to issues that Attorney Neal, presented to Town Counsel. Mr. Eaton asked how do we move forward? Ms. O'Connell stated she will contact Kopelman & Paige and ask for the July Bill, and see when we will get a response to the letter that Attorney Neal sent in July, and ask for an estimate on future cost. Mr. Clarke asked Mr. Neal, what the amount should be to cover the expenses. Mr. Neal III suggested another \$2,000.

Ms. Mahoney stated that we need 1) July billing, 2) any estimates on additional cost, and 3) to keep all parties informed. Ms. Stawski said she has been working closely with Bertin Eng'g and Zucco Construction, by phone and by email so everyone is kept up with the information.

Mr. Clarke stated if the bylaw stands, since the permit was in process before the article was passed can it be grandfathered in? Ms. O'Connell stated that Kopelman & Paige gave a verbal answer that a special permit falls under the bylaws in effect when it is granted, so since no permit has been issued at this time, the new bylaw would apply. Mr. Neal concurred with this interpretation, but has concerns about whether the wording of the new bylaw is clear absent other changes in the bylaw.

The Planning Board will try and have a continuation of the hearing on Aug. 12 at 5:30 p.m., pending town counsel is able to respond to the letter from Att: Mr. Neal III, send the bill for July, and address an estimated cost on future billing. If this happens the board will meet on Aug 12. Should there be any problems, the next continuation on the hearing will be Sept. 3 at 7:15p.m.

The Board decided to continue the hearing to 5:30 p.m. on August 12th if the letter from Town Counsel is available by that date and to continue the hearing at 7:15 p.m. on September 3rd if the letter from Town Counsel is not available until after August 12th.

Motion made by Mr. Eaton to send a copy of the letter to Attorney Neal, Bertin Eng'g & Zucco Construction once the Board receives it. 2nd by Ms. Mahoney. All in favor.

Mr. Loin from Bertin Eng'g asked the Board to contact one of the residents who has attended all the hearing sessions to inform him of the change on the date. Ms. Stawski took the information and will let the resident know if the meeting will be moved to Sept. 3.

Hearing session was closed at 7:55 pm.

Correspondence:

Kopelman & Paige has informed the Town of Brookfield of free seminars they offer. Ms. O'Connell would like to have a seminar on Writing Sound, Defensible, Decisions for Planning Boards, Zoning Boards of Appeal and Conservation Commissions. Ms. Stawski will ask Selectmen's administrative assistant Ms. Neylon to organize and set a date with the Conservation Committee, Zoning Enforcement Officer, Planning Board and any other committee who would like to be present.

Ms. Stawski gave copies of the bills received from Town Counsel dated June 13, and June 30th, to Bertin Engineering on Quayside Shores.

Received a letter from Recreation Committee asking for volunteers on August 23 at Lewis Field, for the Annual Family Fun Fest.

Old Business:

Will reschedule the meeting with the Police Chief and Zoning Enforcement Officer to a future date when both are available.

Ms. Stawski will contact Zoning Enforcement on Jessrielle Estates signage problem, and also on Latino property to get update about whether there are any enforcement issues pending.

Mr. Berthume attorney for O'Clair property 13 Quaboag St, reviewed the Board's file July 11, 2008.

Ms. O'Connell gave Ms. Stawski an updated CD of the Zoning Bylaws with the articles that were approved at Town Meeting in May 2008 and subsequently approved by the Attorney General. Ms. O'Connell asked Ms. Stawski to check with the Town Clerk to make sure she does the required public notice of the zoning change approval.

Wind energy bylaw. Ms. O'Connell has put together a draft and sent copies to all board members. She stated she will add an introductory paragraph similar to the one used for the Open Space Residential Development Bylaw. If the Quayside Shores hearing is postponed, the Board will use the meeting time on August 12th, at 5:30 pm to review the draft.

Meeting adjourned at 8:15pm.

Respectfully Submitted,

Diane Stawski
Clerk for the Planning Board

Minutes approved: 16/2/08