

ZONING ADVISORY COMMITTEE (ZAC)

◀ **Minutes of Meeting** ▶ December 8, 2010

Meeting Title	:	Zoning Advisory Committee
Date	:	December 8, 2010
Time	:	7:00 PM
Place	:	Town House Hearing Room
Chair Person	:	Don Morris
In Attendance (Cttee)	:	Don Morris, Steve Davis, Kathy Bartolini, Sam Stivers, Lee Bartolini, Judi Barrett, Angela Insinger, Eric Denoncourt and Hillary Young Brigandi
Also in Attendance	:	Jack Bartolini, Michael Bartolini, Anthony Bartolini, Ray Hokinson, Ed Estella, Nancy Vargas, Lisa Braccio, Meme Luttrell and Freddie Gillespie
Absent	:	John Leeds, Dana Cunningham and Bill Boland
Agenda	:	Discussion of Article X
Minutes Submitted By	:	HYB
Minutes Submitted On	:	February 10 ,2011
Next Meeting (Public)	:	Date: Unknown Time: Place:
Next Meeting (ZAC)	:	Date: January 5, 2011 and January 19, 2011 Time: 7:00 p.m. Place: Town House Hearing Room

Decisions:

#	Decision
1.	Minutes of October 6, 2010 approved (5/0) with edits.
2.	
3.	
4.	

Action Items:

#	Action Item	Owner	Status	Due Date	Comments
1.					
2.					
3.					

Carry-Over Items for Next Meeting:

#	Description
1.	Route 9, signs/temp signs, building heights, lot sizes in the villages
2.	How does open space fit into site plan review

The Committee received a letter from the OSPC, dated December 6, 2010, in which they stated that the second draft "appears to maximize the developmental potential of large tracts of land rather than focus on the preservation of open space and out natural resources". Judi stated that she did not see an issue with doing both but most of the discussions concerning the OSRD were policy issues that need to be resolved. She also stated that there were zoning laws going through the State legislature that were getting more traction now because of compromises that have been made, which raised the question is the Committee process out of step with the State and if the local zoning will be "grandfathered". Judi stated that this would be land use reform to allow more development and eliminate the ANR method for land division. Steve Davis stated that this would create more effective subdivision control laws. Kathy Bartolini announced that the MetroWest Regional Collaborative was holding a meeting Wednesday, December 15, 2010 at 5:30PM in the Natick Town Hall to discuss these issues.

Sam Stivers asked if it was still the intention to have the draft ready for the Annual Town Meeting in April. Lee Bartolini reminded everyone that several months earlier that the Committee had decided to just keep plugging away on the second draft until they were done and they would determine how the process would fit into the Town Meeting schedule at that point. Don Morris stated that the first meeting was over two years ago in November 2008. Kathy Bartolini concurred that she did not think that it could make the April Annual Town Meeting. This is an extremely comprehensive project and the final product will not reflect everything that has been discussed or the work or time put into the project by all the members.

Article X – Special Regulations

§ 174-54. Open Space Residential Development

A. Purposes. The OSPC requested that the priorities listed (1 through 5) should be reordered so that #1 becomes #4 and #2, #3 and #4 would all move up so that the new order becomes #2, #3, #4, #1 and #5.

B. Applicability. Don Morris seemed to think that in the first draft the OSRD was by special permit but this draft specifies that the OSRD was by right.

B. Applicability. (2) Sam Stivers questioned what a "man made feature" was to which it was explained that it was things such as power lines, etc. to which Judi stated that it would also be a Planning Board determination. Sam Stivers stated that he would feel better is there was more language in the text to clarify the term. Steve Davis suggested "road, right-of-way or similar feature" be added to clarify.

B. Applicability (2)(b) Sam Stivers wanted condominium ownership language added to the text.

§ 174-54.2 Basic Requirements

A. Sam Stivers noted a referencing error.

B. Judi stated that this section was in response to a letter from the OSPC. Definitions for multifamily, etc are already in the definition section.

B.(5) Jack Bartolini asked if "special permit" included townhouses or multifamily staggered/offset homes. Judi stated that she had been given conflicting information and direction in which to direct the text. Jack Bartolini stated that the Master Plan had wanted a diversity of housing therefore he felt it should be allowed by right to which Judi stated she heard that the Town of Southborough would not want diverse housing. Lee Bartolini stated that he believes that having diverse housing by special permit would make it easier to accept and that it would become an issue. Judi agreed stating that Southborough was a "single family house town"

and she did not see anything that would indicate multifamily dwellings by right would be approved. Lee Bartolini stated it would be too difficult to get it passed by-right at the Annual Town Meeting; it would be easier to get it passed at Annual Town Meeting as written.

C. (2)(a) Don Morris asked if this text was the same as in the first draft of the proposed bylaws to which Judi stated that she was uncertain due to the time that has elapsed since the first draft was reviewed. Judi then stated that she read the OSPC letter and agrees with them concerning frontage but not on lot size. There has been a great deal of disagreement on these points by the Committee therefore she would like to see it removed. Frederica Gillespie stated that she saw a problem with the current flexible and conventional subdivisions and that the Town would not get the full benefit or infrastructure reductions proposed. Judi stated that the by-right model has to provide parameters for developers. She then suggested reducing the frontage to 25 feet with the provision that would allow the Planning Board to eliminate the frontage requirement totally with a special permit. Kathy Bartolini stated that she thought components of the OSRD were eliminated because the Committee did not think that they could be approved at the ATM. Sam Stivers stated that he had reservations about allowing the Planning Board to grant special permits, stating that he felt any special permits should be granted by the ZBA as dimensional relief. Lee Bartolini stated that would make the process confusing. Judi pointed out that variances would discourage development, adding that the Committee needed to decide if they wanted to encourage OSRD or discourage it. Lee Bartolini suggested allowing zero frontage by right to which Judi explained that the bylaw needs to have a minimum standard but allow the zero frontage by special permit as an option. **Kathy Bartolini made a motion to reduce the frontage to 25 feet with the Planning Board able to grant special permits to reduce the frontage to zero. Steve Davis seconded the motion which passed 4/1 (Sam Stivers opposed).**

Kathy Bartolini stated that the OSRD should not look like a conventional subdivision. Angela stated that in reality there are not many OSRD developments with only 25 feet of frontage but it does allow creativity. Don Morris stated that some developers might use 25 feet as a maximum frontage adding that 25 feet (of frontage) was interesting but really can not nor should not be done and the number should be changed. Eric Denoncourt stated that when it comes to laying out lots in a proposed OSRD there will be many times when 25 feet is not sufficient; lots will also need to be designed to fit the proposed houses. The frontage will be varied so that they end up with an average of 25 to 60 feet. Frederica Gillespie stated that the restricting factor was still how many houses they could get in a lot. Fifty units is still fifty units whether it is spread out over more infrastructure or clustered with more open space – no developer is going to build something that no one will buy; townhouses are just a different “look” for Southborough. Lee Bartolini stated that there needs to be more control otherwise developers will misuse the bylaw. Kathy Bartolini wanted authority to minimize frontage allocated to the Planning Board. Don Morris stated that he was not totally in agreement with Sam Stivers and he was comfortable enough to move forward and see how the proposal turns out. Ed Estella asked how access would be dealt with if the frontage is reduced. Judi stated that access could be through shared and multi driveways depending on the site. Ed then asked if there would be individual lots to which Judi stated not necessarily and Steve Davis stated that any lot with five feet of frontage would have to seek a special permit from the Planning Board.

C. (2)(c) Judi stated that in the by right OSRD model there needs to be a minimum standard for setbacks. A special permit can eliminate setbacks during the review; she then asked for suggested changes to the proposed 10 foot front yard setback. Don Morris stated that he felt the front yard setback had to be greater than ten feet for safety as a safe distance from the road for snowplowing, road salt ice build-up, etc adding that he would like to see 20 feet but would settle for 15 feet. Jack Bartolini stated that the current zoning requires a 10 foot setback on the 10,000 square foot lots (Scribner's Note: there is no residential zoning for 10,000 square foot lots – the old RC District lots are 15,000 sq ft, 100 feet of frontage, 25 feet front yard setback, 30 foot rear setback but a 10 foot side yard setback as long as it is not on a corner lot). Sam Stivers and Lee Bartolini agreed with Don Morris that 15 feet minimum was preferred, although Lee Bartolini asked what the disadvantage of making the front setback 25 feet was to which Don Morris explained that the OSPC and Judi were recommending front yard reductions as part of the OSRD but he did not feel that the 10 feet proposed was safe. Lee Bartolini stated that if the ratio numbers could not be changed then that much of a reduction should not be allowed if there is not room to allow a 25 foot front yard setback. Judi stated that this front yard setback would only apply to interior lots not those on the main roads. Sam Stivers stated that snow is thrown farther than 10 feet from the side of the road on town roads. **The Committee voted 5/0 to change the front yard setback to 15 feet from the 10 feet proposed.**

C. (2)(d) Judi explained that "cluster" meant four buildings with five units each in this context.

C. (2)(e) Judi explained that the separation between the buildings was based on design; a 25 foot high building would have to be separated by 25 feet from other buildings as a way to break up the massing of the buildings and allow access for emergency vehicles. This also provides guidelines for developers. Kathy Bartolini stated that this would also provide flexibility for developers along with the Planning Board special permit feature. Sam Stivers stated that he felt that the ZBA should be the permit granting authority. **The Committee voted 4/1 (Sam Stivers opposed) that a sentence would be added to the text allowing the Planning Board to grant special permits to allow greater flexibility.**

C. (2)(f) Jack Bartolini disagreed with the text citing a 50 foot separation between a building in an OSRD and an existing home. It was noted that in RA districts the side yard setback is 25 feet and a 50 foot separation would mirror a RA district. Sam Stivers wanted the location of the buildings tied to the lot line to which Judi agreed. She also stated that she had made an error in that existing residences should be protected and the text should have been written that way. Kathy Bartolini stated that the OSRD presumes that there are wide open areas to develop but most of the remaining undeveloped parcels are only six to seven acres all surrounded by abutters. A 50 foot side yard setback all around could be prohibitive and there will not be open space features in those lots. Frederica Gillespie stated that there are a great many lots where an OSRD would not be appropriate. Judi stated that this was a policy issue to which Kathy Bartolini stated that existing homes need to be protected. **The Committee voted 4/1 (Sam Stivers opposed) to change the text so that it reads "closer than fifty (50) feet in an RA District and thirty (30) feet in an RB District to an existing residence..."**

D. Judi acknowledged the OSPC letter citing the 1.5 multiplier as too great. Meme Luttrell, Chair of the OSPC stated that she preferred a yield plan to a formula method to determine the density bonus. Judi asked how to get to the acceptable number and what is that number to which Steve Davis stated it would not work since developers will not opt for the OSRD without a density bonus. It has been tried with

the MRD. Frederica Gillespie stated that the OSPC had no issue with the density bonus just the formula to determine the bonus using an example of a 100 acre parcel, 50 acres of which was wetlands with sheer cliffs on the property which are unbuildable but would be included for the sake of the calculations for the density bonus. She then suggested that the conventional subdivision method be used to get a reasonable density bonus. Lee Bartolini stated that a greater density bonus than offered by right would not pass at ATM. Other bonuses could be Cape Cod berms vs. granite berms or utility incentives. Steve Davis stated that the bylaw has to provide extra units for the developer or they will not build an OSRD. Judi stated that additional bonuses could be granted by special permit although the discretion could get "muddy". She then suggested that the text be changed by removing the formula and changing it to a special permit yield plan times 1.2. Kathy Bartolini stated that a yield plan would not take into consideration difficult topography issues which would allow a greater density bonus. Frederica Gillespie pointed out that the formula provides 50 percent more units than a conventional subdivision plan. Don Morris mentioned the financial impacts to the Town, which John Butler spoke to at an earlier Committee meeting, adding that zoning should not be driven by the tax rate and it would be important to have John Butler's support to get the proposed zoning code passed at ATM. Don Morris agreed that there needs to be a density bonus in order for developers to build to which Kathy Bartolini stated that it would be useless to just get something passed that "sits on the shelf". Jack Bartolini stated that the development would sell by doubling the open space to which Don Morris asked how much would that increase the density. Steve Davis stated about 20 percent; go from 11 to 14 units would equal a 20 percent increase given a 20 percent bonus on the yield plan. Don Morris stated that Planning Board has always had a yield plan which was the basis and important part for the rest of the project. Kathy Bartolini asked what a yield plan was to which it was explained that it was a conventional subdivision plan laid out with roads within the bylaw and topography constraints. Judi stated that in a conversation she had with the State Attorney General's office the question was posed who would decide if a yield plan was valid in a by-right model to which Don Morris stated the Planning Board would and has done so many times in the past. Judi stated that there could be a uniformity issue created.

Steve Davis made a motion to change the text so that it reflects a yield plan plus a 20 percent density bonus. Lee Bartolini stated that this decision was too important and should be postponed until more Committee members are present. Don Morris agreed, stating that this would be the first item discussed at the next meeting. Lee Bartolini also stated that John Butler's argument regarding the financial impact to the Town concerning open space was not so much about the additional drain to Town services caused by the additional houses, especially to educate the children, as it was the cost to purchase additional open space, then he suggested that Judi might want to look at the financial impact numbers. Steve Davis stated that there would be the same results on each parcel and the numbers are scary. Judi stated that in her conversation with the State Attorney General's office it was stated that the subdivision control law was self regulating. The developer has to be able to know what could be developed; a yield plan can get "muddy". She then stated that she wanted to discuss the issue with the State Attorney General's office in more detail.

The meeting adjourned at 9:01 PM.