



ZONING BOARD OF APPEALS

Public Hearing

2 Fairgrounds Road
Nantucket, Massachusetts 02554

www.nantucket-ma.gov

Commissioners: Ed Toole (Chair), Lisa Botticelli (Vice chair), Susan McCarthy (Clerk), Michael J. O'Mara, Kerim Koseatac
Alternates: Mark Poor, Geoff Thayer, Jim Mondani

~~ MINUTES ~~

Friday, March 29, 2019

4 Fairgrounds Road, Public Safety Facility Community Room – 4:30 p.m.

Called to order at 4:38p.m. and Announcements made.

Staff in attendance: Eleanor Antonietti, Zoning Administrator;
Attending Members: Toole, Botticelli, McCarthy, Koseatac, Thayer, Mondani
Absent: O'Mara, Poor
Town Representative: Ed Marchant, 40B Advisor; George Pucci, K&P Law, P.C.

Agenda adopted by unanimous consent

I. APPROVAL OF MINUTES

1. None

II. OLD BUSINESS

20-18 Surfside Crossing, LLC Surfside Crossing 40B Hanley
ORIGINAL APPLICATION: The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, pursuant to a project eligibility letter issued by MassHousing, in order to allow a multi-family project consisting of 156 for-sale dwelling units comprised of 60 stand-alone single-family cottages on fee simple lots and 96 condominium units in 6 multi-family buildings, with 25% (39 units, 15 cottages and 24 condominium units) designated as affordable units, with a total of 389 bedrooms. The existing lots will be subdivided into 60 fee simple lots, 4 open space lots, and a 3.6-acre condominium lot. Off-street parking will consist of 2 spaces per cottage and 148 spaces designated for the condominiums. Infrastructure and amenities will be provided; however, the proposed project is proposed to connect to municipal water and sewer infrastructure.

MODIFIED PROPOSAL under consideration: The Applicant is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B, pursuant to a project eligibility letter issued by MassHousing, in order to allow a multi-family project consisting of 100 for-sale dwelling units comprised of 40 stand-alone single-family cottages on fee simple lots and 60 condominium units in 5 multi-family buildings, with 25% (25 units, 10 cottages and 15 condominium units) designated as affordable units, with a total of 285 bedrooms. The existing lots will be subdivided into 40 fee simple lots, a 3.3-acre condominium lot, a 0.5-acre community lot, and 2.8 acres of open space lots. A total of 244 parking spaces will be provide consisting of 80 off-street parking spaces (2 per cottage), 124 spaces for the condominiums, 20 spaces for the recreational community building, and 20 overflow on-street spaces. Infrastructure and amenities will be provided; however, the proposed project is designed to connect to municipal water and sewer infrastructure.

The application and supporting materials are available for public review at the Zoning Board of Appeals office at 2 Fairgrounds Road between the hours of 7:30 A.M. and 4:30 P.M., Monday through Friday. The Locus is situated at 3, 5, 7 and 9 South Shore Road and is shown on Assessor's Map 67 as Parcels 336, 336.9, 336.8, and 336.7 and is shown as Lots 4, 3, 2, and 1 on Plan Book 25, Page 50 as recorded at the Nantucket Registry of Deeds. The total lot area of the combined parcels is approximately 13.5 acres. Evidence of owner's title is recorded in Book 1612, Page 62 at the Nantucket Registry of Deeds. The property is located in a Limited Use General 2 (LUG-2) and within the Public Wellhead Recharge District

Voting Toole, Botticelli, McCarthy, Koseatac, Mondani
Alternates Thayer
Documentation PowerPoint® presentation, correspondence, and 40B Comprehensive Permit application documentation.
Representing Paul Haverty, Blatman, Bobrowski & Haverty, LLC
 Don Bracken, Bracken Engineering, Inc.
 Marianne Hanley, Reade, Gullicksen, Hanley, & Gifford LLP
 Jamie Feeley, Cottage & Castle, Proponent
 Josh Posner, principal

- Public Paul Derensis, attorney for Nantucket Tipping Point
David Iverson, 21 Meadowview Road
Jacques Zimicki, 3 Wherowhero Lane
Cormac Collier, Nantucket Land Council (NLC)
Linda Derensis, Nantucket Tipping Point
Bruce Perry, 14 South Shore Road
Peter Fenn, Counsel for NLC
Diane Holdgate, for Diane Coombs at 44 Union Street
Burton Balkind, 10A Scott's Way
- Discussion **Haverty** – The sticking point seems to be what information is necessary to issue a decision on an alternative plan. He reached out to ZBA's counsel and Mr. Marchant and discussed with his client what is needed to proceed. His client isn't advocating the 92-unit project as their preferred project; he suggested for his clients to agree to extend for one-more hearing before which they will issue sufficient documentation for the board to issue a decision; the extension would be to allow for one more hearing only; suggested April 11th.
Toole – This is a new twist. The ZBA regular meeting starts at 1 p.m. and he must leave at 4:30 so there would be very little time to discuss the proposal.
Botticelli – We would have an extension for April 11th only; it would be nice to have an extension to April 18th.
Haverty – There wouldn't be a lot of lead time. The additional information would be consistent with what's been reviewed; it shouldn't take a lot of review or discussion time.
Toole – If the 11th is the date, we'll do the best we can; he wants more time on the deliberation side. He doesn't think the 92-unit plan can be discussed because we don't have detailed plans. We asked two meetings ago for those plans and now they are still forth coming.
Pucci – You can identify what more you need.
Toole – The package of information that we got March 11th is up to the level of what we were given for tonight; what we asked for the last time is only information that pertains to the 92-unit plan and we will ask for that again; we don't care how we got to the 92-unit plan.
Haverty – Agrees don't want to waste time on information that isn't pertinent.
Toole – Read the list of what ZBA was looking for: preliminary architectural plans for all buildings stamped and signed; exterior building materials; a chart clearly showing the number of units, bedrooms, unit square footage; floor plans including unit numbers so affordable units can be easily identified by ZBA and subsidizing agency.
Haverty – Happy to submit a proposed plan showing affordable units but the subsidizing agency will dictate changes.
Marchant – The identification and location of affordable units is a housing policy matter. They will designate the location of the affordable units to be discussed by the Board.
Toole – Asked if that pertains to *pro rata* distribution of the units.
Marchant – No, there has to be a reasonable *pro rata* distribution of units; if you feel they are unreasonable, you raise the issue in the decision. Cottage affordable units have been identified. In the condos, it would be the number of affordable units.
Toole – It isn't unreasonable to have the floor plans identifying the affordable units. Floor plans should include room dimensions for the condos; wants the building heights noted. If we approve a plan that hasn't been vetted in terms of lighting and egress...
Haverty – The buildings must comply with applicable building code and laws.
Marchant – Once a comprehensive permit is finalized (not appealed) the applicant must submit a final approval application to the subsidizing agency, that agency wants to know what changes were made during the public hearing process. Then the applicant prepares the construction documents; it is the responsibility of the building inspector to review the plans for compliance to code and the plan in the comprehensive permit.
Toole – We need a chart showing total habitable net square footage representing total affordable units; expect a *pro rata* of units and bedrooms; i.e. the affordable units aren't all studios. Preliminary engineering plans to determine if the proposed water, sewer and storm plans are achievable; not sure how to get anyone to review those if we close on April 11th. Asked if the Board could reopen the hearing.
Pucci – You can ask the applicant to reopen the hearing if needed to get expert information on the engineering plans.
Toole – Doesn't feel the ZBA is equipped to make technical decisions on the storm drainage plan.
Haverty – Our position regarding water, sewer, and drainage is that those fundamentally don't change significantly between 100-unit and 92-unit plans. We aren't proposing to submit additional details at this time, but it can be conditioned that information be submitted for a review.
Toole – We still act as the water commissioners and sewer commission.
Pucci – For sewer, there will have to be more dialogue between the developer's engineer and the Sewer Director and Weston & Sampson; there should be productive dialogue leading to a reasonable approach. Storm drainage should be part of this process; he would hope some type of review of the plan take place because it's a big component of the plan.
Toole – Feels the ZBA doesn't have the technical expertise to determine if the drainage plan meets requirements.

Haverty – We are talking about a reduction in the impervious area, so drainage should become easier. We don't intend to keep the hearing open to allow a review on the 92-unit plan; we don't think that is necessary. We will accept a condition for the plans to be reviewed but there won't be time for a review before the next hearing.

McCarthy – Asked where the storm drainage plan is; she couldn't find it in the packet

Bracken – They have been in contact with John Chessia, Chessia Consulting Services, LLC, and came to an agreement on a system that would meet the stormwater drainage act. It's in the packet and is catch basins with overflow and biofilters.

Toole – Asked why those components can't be over laid on the 92-unit plan. What he doesn't like is that we might be kicking the issue down the road.

Bracken – We can show in a general way but not include the details and calculations.

Toole – Asked what happens if ultimately it is proven not to meet the criteria. Asked if we are kicking the can down the road.

Haverty - We can show the location of the catch basins but not a full set of calculation that would only change favorably. You can include a condition requiring a plan showing full compliance with the Department of Environmental Protection (DEP) stormwater standards.

Botticelli – We need to see where the basins will be and how they impact the buffer zones. Grading was a big issue.

Toole – If someone wants to contest or appeal the comprehensive permit based on stormwater, asked how they can make that assessment without the information being part of the permit.

Marchant – It comes down to the terms of conditions that are drafted; those will be clear that the system as designed must comply with all applicable DEP standards. Stormwater is a sensitive issue especially in areas of high ground water.

Pucci – He wants to distinguish between what is within ZBA purview and 'subject to' conditions; in terms of what would be appealable and what would not, you're not permitted to take information, close the hearing, and impose conditions for any subsequent required approval you choose to do. The only type of subject-to-conditions you can impose would be the grant of the subsidy and issuance of final approval by the subsidizing agency. You will condition your permit on the requisite state approvals such as DEP approval of the Stormwater Management Plan. You need to address in the hearing any issues within your purview such as waivers applicable to stormwater issues and local zoning bylaws is addressed. You cannot delay your process based upon state approvals, but you will have that in your permit that they have to comply with those requirements.

P.Derensis – Couldn't find a sign-off from Mr. Chessia in the record. ZBA really needs experts to look at the paperwork. You need the time to get the documents to the experts. The timeline proposed doesn't work for the ZBA.

Iverson – They are proposing close to 6 acres of impervious surface, and he's concerned the stormwater drainage will get lost in the process.

Haverty – We are suggesting the extension to get sufficient information to the board, so the board can make a decision on the 92-unit plan consistent with what's required under the regulations. We aren't looking to have lengthy discussion and review, just to ensure your record is complete.

Toole – We want to make an informed decision., which is hard when a huge amount of documentation arrives the day before the meeting and doesn't contain information we need; now we are being told we are going to get another information dump.

Zimicki – We've never talked about the type of storm water system, if they are bio-retention or filtration. Department of Environmental Protection told him ZBA should be asking for scientific support the system will meet the needs. His main concern is the impervious surface within the well head district.

Toole – We don't have authority to make the applicant give us more time; we are under pressure to deny or issue.

Bracken – We designed a system that technically meets stormwater management requirements.

Toole – This is hot-button item; asked the applicant to consider the notion of additional time so the Board can have at least one discussion about it once they get the plan.

Thayer – Someone needs to reach out to Mr. Chessia.

Antonietti – Before the last hearing, Mr. Chessia received the plans for the 100-unit plan and he said he didn't have time to review it by April 4th; after this hearing, she will recontact him about the next deadline. He has the most recent report and is aware of the deadline.

Collier – Mr. Chessia hasn't had time to review the information on the 100-unit layout and now the applicant is saying they will provide a sketch plan. The Planning Board, which the ZBA is acting as, would never accept anything less than a complete, detailed plan of the layout then say they will deal with it after the public hearing. They should provide the detailed plan of the new layout and allow the peer review to happen. It is absurd this is happening with a sole-source aquifer.

Haverty – There are stormwater calculations submitted to Mr. Chessia that has more impervious surface than would be in the 92-unit development. If he reviews those and finds them acceptable, the 92-unit plan shouldn't be any different. They will provide those plans but that's as far as they are willing to go.

Toole – If we have the same level of detail on the engineering plans that shows the catch basins, the trees and all the components should be on the plan, but the calculations themselves...

- Thayer** – Mr. Bracken says storm water drainage system is approvable, but we haven't heard that from Mr Chessia. The last we heard is that it wasn't adequate. At some point Mr. Chessia has to tell us the technology is okay.
- Botticelli** – Looking at the plan, can't see how all the subsurface drainage can be fit on it; we can't make that determination without calculations.
- McCarthy** – You're asking us to take a leap of faith. We have to approve a plan; we had two meetings where a design group came up with this plan; then we come back and are talking about the 100-unit plan then it's back to the 92-unit plan and back and forth; now you are limiting our time. I want to see a final set of plans.
- Toole** – We need stormwater information.
- Bracken** – Explained they would submit a plan that shows where components are.
- Toole** – Moving along; if we aren't comfortable with the amount of information we get, we'll deal with it.
- Botticelli** – We need an updated waiver list. She wants to see both the waivers for the 100-unit plan and the 92-unit plan.
- Haverty** – They will supply an updated waiver list for the April 11th hearing.
- Toole** – Asked that a date be on the plans and the plans are indicated as for the 92-unit plan.
- Haverty** – His client's preferred development is the 100-unit plan; but the feedback is that the 92-unit concept was more preferable, and you want enough information in the record to support a decision on that. By extending the hearing an additional week, we are expecting to have a decision made on the 92-unit plan.
- Botticelli** – It is frustrating to be getting the information on Wednesday and have only 2 hours the next day to make a decision.
- Toole** – It's ludicrous. It is inappropriate not to give us sufficient time to review the information. Continued list of needed items: a level of information as would be submitted for an Historic District Commission hearing, which is available on line; updated landscape plan of the entire site pertaining to the 92-unit plan as well as landscaping for the individual units.
- Mondani** – We've gone through a number of meetings in which the environmental sensitivity of the area has been requested; we are asking for that.
- Haverty** – He would include that into a draft condition, which he will provide to the Board. The level of detail being asked for goes beyond what is required.
- Pucci** – The landscape plan is a boiler-plate part of the process; you really need a landscape plan: open space, play area, buffer areas, site lines, lighting, etc. You're looking at this as a site-design review board; site design is an issue brought up by the area residents. It's way too much to ask the ZBA to become landscape architects; he would hope they will provide a sufficiently detailed landscape plan.
- Toole** – Can't see why the landscape plan couldn't be morphed into the 92-unit plan.
- Marchant** – It is not unusual for a ZBA to get a preliminary plan. How the condition gets drafted is that the final landscape plan would be submitted by a qualified landscape architect with the plan to be reviewed by the Board.
- Toole** – He would like to see as much detail as possible; landscaping is important to every project. We need a baseline to work with.
- Mondani** – There has been confusion about the buffer; that needs to be clarified and whether or not it will be vegetated.
- Thayer** – As much of the buffer as possible should be left natural and then augmented where need be.
- Toole** – Lighting should be part of the landscape plan. We have a storage shed design. We talked about reasonable accommodation for affordable residents who need it. Equipment list for market rate and affordable units; built-out basement areas need to be shown; proposed recreation building architectural information.
- Haverty** – If the recreation building is going to change, architectural drawings will be provided; if there is no change, you have the plans.
- Botticelli** – The plans for the recreational building are incomplete.
- McCarthy** – We asked for that information back in January. She wants to see everything the HDC would require on the pool.
- Toole** – Need a plan for the pool as part of the landscape plan.
- Koseatac** – He wants to see the pool before closing the hearing; that information is not in the plan.
- Haverty** – His client is telling him that information has been provided. What is required under Chapter 40B is different than what is locally required. We believe the submittal requirements have been met.
- McCarthy** – Your client chose for us to act as the HDC; if we are acting as the HDC, we need the same information they require.
- Toole** – We have options on the recreational building that would be discussed during the deliberation process. It behooves the applicant to supply the information we ask for; if you don't, that's a basis for a denial. Continued list: governance documents regarding the Homeowners' Association (HOA) and narrative describing the relationship between the HOA and Condominium trust; the fees and whether or not the affordable buyers will be responsible and how costs of common area expenses will be allocated.
- Marchant** – The ZBA is responsible for understanding how costs will be shared between the HOA and Condominium Trust; you're interested in what a preliminary budget might look like. That information is necessary for defining an allowable price for the affordable units. All Boards he's worked with in the past have felt a responsibility to ask those questions.

- Haverty** – He would be happy to provide the budget information mentioned by Mr. Marchant. The ZBA doesn't see the HOA or Condo docs.
- Toole** – We need to know whether or not affordable unit homeowners will be responsible for sewer connection fees; thought there was a waiver for that. According to the applicant, a critical part of this whole plan is the year-round residential component; we've seen a sketched outline of that.
- Marchant** – We were interested in receiving a legal opinion whether or not there would be fair-housing issues. That has been submitted; he's not sure there's much more you can ask for. He thinks there would be discussion during deliberation on the program.
- Pucci** – He doesn't envision conditions or waiver requests regarding the year-round housing issue.
- Thayer** – It's a big component used in the argument for the higher density.
- Pucci** – Mr. Mondani called the year-round housing a red-herring issue; he agrees because the philosophy behind the project is not relative to ZBA jurisdiction for this project. Conditions concerning year-round housing aren't relevant to the ZBA. You aren't conditioning this in terms of "density"; you condition site development issues, amount of impervious surface, construction, etc. On the other hand, the fact the developer envisions a housing goal is not relevant in arguing for a certain unit amount; if they argue that condition renders the project uneconomic; that is litigated at HAC.
- McCarthy** – If in the site review we require more green space to reduce the pervious surface and in that process the number of units goes down and the applicant claims that renders the project uneconomic, asked if the ZBA has any control over the year-round restriction and if HAC don't get involved in that self-imposed restriction, HAC could say they undercut themselves.
- Pucci** – You don't know where it will end up if they argue a condition renders the project uneconomic and they prove that; conditions should be reasonable and lawful. An economic claim would be reviewed at HAC.
- Toole** – We need an updated list of waivers based on the 92-unit plan; asked if there is still a plan to phase construction.
- Haverty** – We'll submit a phasing plan.
- Koseatac** – We need input from the Fire Chief.
- Botticelli** – We need an engineering plan indicating fire trucks can get through.
- Haverty** – You will have that; fire hydrants would be signed off by the Fire Chief under the Fire code.
- Toole** – We like all the information ahead of time, so we don't have to review a modification request later. We need dumpster locations and mailboxes for the 92-unit plan. Sewer, you're going to have to have a sewer plan that's viable.
- Pucci** – A sewer plan doesn't get kicked down the road; you are the Sewer Commission. Because of the time-frame being imposed, hopefully there will be a lot of dialogue between Mr. Bracken and the Sewer Director; Weston and Sampson provided recommendations in January; that dialogue is on-going.
- Toole** – There is a memo from the sewer consultant stating four options; one was a force main to the plant that was part of the original proposal. The applicant said they were going to explore two options; asked what came of that.
- Bracken** – In the packet is a letter from the Select Board saying that option wasn't viable even though Weston and Sampson identified it as viable. We don't know the reason why it wasn't viable.
- Pucci** – Weston and Sampson identified that as the No. 1 option to pursue and it is consistent with the Town's long-term planning efforts for the area and a detailed sewer study Weston and Sampson conducted. That information was conveyed to the development team in January.
- Toole** – At one point the gravity line was discussed.
- Collier** – Suggested pulling out the January 25th Select Board letter; it clearly says a gravity line from the site to the treatment plant with a pump at the treatment plant; that is the Town's recommendation.
- Haverty** – There are a number of options that were discussed and the ZBA needs know which option the applicant wants as their official proposal.
- L.Derensis** – She feel the 1100-page dump is a marketing tool of the developer; it doesn't provide any alternative. In it the applicant waives their attorney client privilege and the developer's emails states that the Town is not working in good faith; she wants it on the record that the Town has never stonewalled and never not worked in good faith. Mr. Bracken stated he and Mr. Chessia agreed on a number of issues but the last packet indicates 41 times they disagree. The ZBA doesn't have the time to bring in experts to discuss this project. In regards to conditions, she's familiar with Mr. Posner and his conditions; she does not want to put so much value in the conditions because you may not be able to uphold them.
- Feeley** – In reference to the 1100-page dump, that was at the request of the Board from the last hearing. We submitted each document listed in the chronology they were issued.
- Pucci** – Back to the sewer issue, his recommendation to the Board is that a dialogue take place among the developer's team, the sewer director, and Weston and Sampson to come up with suitable conditions. He does not envision a process by which they come back with their preferred option; he's looking for a detailed data-driven discussion and solutions. Weston and Sampson recommended installation of the gravity line with a pump installed at the Surfside Wastewater Treatment Facility. Whether or not we can reach an agreement with the developer concerning that option and a reasonable set of conditions about how that would occur remains to be seen.
- Haverty** – We commit to working with the Sewer Department but can't guarantee an agreement.

P.Derensis – In the packet he saw a lot of back-room communications. There needs to be much more transparency; an issue this important shouldn't be done where the public can't see. There was a lot in the packet that went on behind the scene and was not open to the public.

Pucci – It's not the preferred approach; it's preferable for all discussion to be public. It is not uncommon for consultants to communicate with each other in an effort to get to a substantive solution. All documents have been released under a freedom of information request and are in the packet.

Haverty – At the pleasure of the Board, his client is willing to partake in a workshop with the Sewer Department with a ZBA member present.

Thayer – Volunteered to be part of that.

B.Perry – The Board should accept what the Town recommends, not what the developer wants. About the public records request, a number of documents/emails between David Gray and Mr. Bracken were not included.

Pucci – It is not true that we did not release all documents. There has been a lot of usefulness from the public-records request; to try to create an inference there is back-room communications between Town personnel and the development team is not true. The Town will produce any communications regarding the project.

Toole – Stated he has listed all the information on the 92-unit plan the ZBA needs.

Mondani – He suspects the ZBA won't have all the requested information by the 11th. On a number of occasions, we've talked about things happening after the comprehensive permit is approved. Asked how much leeway we have.

Pucci – He sent out the after-the-fact approval guidelines. The Board wants to be looking at a real landscaping plan that supplies sufficient detail for the Board to feel confident in what it approves. The Board can't say an issue is subject to approval by another board. Housing issues are more in line with the subsidizing agency.

Fenn – Once the permit is issued, it's issued, and the Board can't see it. A public hearing isn't about getting plans 24 hours before the hearing; there is no chance for anyone to review. It is completely unfair. He thinks the ZBA is being set up to issue a denial by being given incomplete information, so the applicant can appeal for what they want. The Board should see what it wants to see; and put on reasonable conditions given the information it has.

Haverty – Refuted the statement his client is "flim-flamming" to get a denial.

Diane Holdgate – Read a statement from Diane Coombs into the record. Asked that this project be denied because it will destroy Nantucket.

Botticelli – Suggested trying to talk about some of the waivers.

Mondani – Asked if we would have Planning Board guidance on this.

Toole – No guidance; our attorney and consultant are here for that.

Pucci – He would expect more input; typically, you would get more Planning Board input to act in their stead. It is the developer's prerogative to ask that the hearing be closed. You can either go forward on a decision on the 100-unit plan on April 4th, or you can take them up on the offer to be provided detailed information on the 92-unit plan and act within the timeline being imposed.

WAIVERS

B.Perry – He submitted comments on the waivers that should be in the packet. It's unusual to request waivers without a reason why they can't meet the regulations. He doesn't think the 92-unit project will require any fewer waivers.

Collier – Read a statement from NLC's December letter, "nowhere in statute or governing regulations is an applicant authorized to demand waivers from locally adopted regulations without providing the board and the public with support of why those waivers are required to prevent the project from being uneconomic pursuant to the statute." Trying to compare zoning from another area is not a legitimate argument. We should be talking about every waiver and its impact on this project.

Toole – The uneconomic issue comes up if we aren't willing to grant a waiver. We should discuss each waiver as it impacts the economics of the project and let the applicant make the case why each waiver is necessary to allow the project to be economic.

Pucci – It goes back to the 2-prong approach: impose reasonable conditions and deny something reasonably. If you've done that, the developer must prove that denial, condition, or requirement renders the project uneconomic.

Toole – We can probably knock some of the waivers off the list.

Hanley – Read through the waiver list.

Section 139-7 Allowing apartment buildings in LUG2 zone:

Toole – This waiver will remain. We need more information on the size of the buildings.

Section 139-12.B Overlay district

Toole – They reserve the right to ask for a waiver later.

Section 139-16 Density, setbacks and frontage

McCarthy – When we met on Tuesday and we thought we were getting the 92-unit plan, Mr. Feeley was adamant that we accept the 92-unit plan without changes.

Haverty – There will be no submittal of plans beyond the 92-unit proposal.

Toole – The zero front-yard setback is hard to swallow because of sight lines.

Marchant – You want specificity as to which lot(s) will have the zero setback.

Section 139-19.B Screening of parking:

Toole – We need to see the plan; fewer units means more room for trees.

Section 139-20.1 (A) Driveway access:

Toole – We can waive that; they have to meet the regulation.

Section 139-20.1 (B) Two driveway accesses:

Bracken – The idea is a single condo parking lot with two access points. We need the plan.

Mondani – Asked why they are asking for a waiver.

Hanley – They don't want to have to go to the Department of Public Works (DPW) for approval of the driveway curb cuts.

Toole – If there are other rules and regulations, you might as well apply to the DPW. We want the DPW to check that.

Haverty – Your decision can have a condition that the final plan is reviewed and approved by the DPW.

Pucci – You want to bring the DPW into the process now.

Marchant – On waivers like this, the Board can state that the waiver is granted as long as the applicant complies with all DPW requirements. The Zoning Enforcement Officer will ensure compliance.

Pucci – Recommends the DPW director looks at the plan to provide input. You are seeking a waiver of having to go the DPW, but it is still helpful to have the regulatory official provide input.

Marchant – The applicant will prepare a plan for each lot and ask for a permit; at that time the building inspector looks at the plan and makes a determination. There are always changes after issuance of a permit. They aren't asking for relief from requirements.

Collier – Perhaps it would be helpful to invite department heads to the last hearing.

Haverty – We will provide an extension to April 11th.

Discussion about possibly meeting April 4th with whatever information on the 92-unit plan is available at that time.

Botticelli – It feels like the applicant is giving us as little time as possible to review plans.

Haverty – We aren't trying to rush the ZBA, we are trying to get to a point to issue a decision on the most amenable plan.

Pucci – The applicant is agreeing to continue to April 11th with whatever information is available to accomplish what we can.

P.Derensis – Asked that the Board stick to the 92-unit plan.

Haverty – His client is willing to come back on the 4th but can't commit to additional information by then; we've pressured our consultants to provide information on April 11th.

Toole – April 11th is the regular meeting during the day; asked what the difficulty is about meeting the following week.

Haverty – That is school vacation week and that Monday is a holiday. This process has been going on a long time and his client is at a point where he feels it needs to be completed.

Thayer – The past month was wasted time and now they are giving the Board a week.

Balkind – He sees this as an imposed deadline from the developer; another data dump is unfair for the public.

Motion **Motion to Accept the extension of the deadline to close the public hearing to April 11, 2019.** (made by: Mondani)
(seconded by: Koseatac)

Vote Carried unanimously

Motion **Motion to Continue the hearing to April 11, 2019 at 1:00 p.m. at Public Safety Facility at 4 Fairgrounds Road Community Room.** (made by: Mondani) (seconded by: Koseatac)

Vote Carried unanimously

III. OTHER BUSINESS

- 1. Toole – The consultant fee account replenishment. Asked the applicant to replenish that account.

IV. ADJOURNMENT

Motion to Adjourn at 7:40 p.m. (made by: Koseatac) (seconded by: Thayer) Carried unanimously

Submitted by:
Terry L. Norton