



BOARD OF APPEALS  
TOWN OF FOXBOROUGH  
40 SOUTH STREET  
MASSACHUSETTS  
02035

**Foxborough Zoning Board of Appeals Minutes  
August 20, 2015**

Members present: Chairman Neil Forster, Members Barney Ovrut and Kris Behn, Alternates Kim Mellen and David Brown, Building Commissioner Bill Casbarra

Chairman Forster opened the meeting at 7:00 p.m. in the Media Center of the Foxboro High School, 120 South Street.

**Deliberations - Hanover R. S. Limited Partnership requests a Comprehensive Permit entitled "Domain Foxborough" pursuant to Chapter 40B of the Massachusetts General Law to approve 248 rental apartments, 25% of which will be affordable to households earning no more than 80% of the median income. The property, known on Assessors Map 156, Parcels 6531, 4003, 8068, 8069, 8070, 8071, 8072, 8073, 8074 & 8075 is located at Fisher Street & South High Street.** The Board discussed the proceedings this evening. A decision needs to be reached whether to approve or deny this petition. If it is approved, the waivers need to be reviewed and a decision to approve or deny each one needs to be made. Then a draft decision would be needed and will need to be filed within fourteen days of voting on the decision.

Mr. Ovrut thanked everyone for their decorum during the hearings, there was much disagreement but everyone cooperated during the hearing process. In regards to the petition, he will be deliberating the facts of the petition, applying the law and making a decision; whatever his personal issues with the application are, they are immaterial to the discussion; the decision needs to be based on what the law allows. The Board is constrained by the regulations, the amount of units cannot be reduced unless there is a compelling danger to health and safety. Mr. Ovrut feels that there will be safety issues, but there are no facts to show that and he will encourage more safety features through mitigation. The applicant needs to demonstrate the satisfaction of the requirements and if they do, the Board is compelled to approve the application with appropriate conditions and mitigation.

Mr. Brown supports the application; he asked for traffic information for allowed uses on the site and feels that this use will not generate significantly more traffic than what would be generated by other allowed uses. In regards to the number of buildings, there would be no advantage to having lower buildings, the profiles that were requested and presented shows that the residents won't see most of the buildings due to the downward elevation of the site. The applicants have also provided additional fencing as a buffer. Mr. Brown also noted that he read all the submitted comments by the abutters.

Ms. Mellen stated that even though she is not a voting member on this petition, she appreciated the site walk she attended, it helped her to understand the scale of the project and how they were proposing to lessen the impacts to the abutters. She heard the neighborhood concerns and stated that all the members read all the comments submitted even if they were not all read aloud at the meetings.

Mr. Behn has always been concerned with the additional traffic and stated that the mitigation offered may or may not be sufficient. The addition of traffic to Route 140 remains a concern.

Mr. Forster stated the he has always been concerned with the safety due to the number of buildings and the height but the zoning laws allow for a four story, sixty foot building. He noted that he did ask for the financial impacts for having fewer units and was told that wasn't necessary. The neighbors don't seem sure of what they want done at the intersection so the mitigation in lieu of will help when they come to a consensus. If he votes in opposition of the petition and the decision is appealed, he needs to weigh the chance of the town getting what they would like to see plus the mitigation offered as opposed to the applicant getting what they want with no mitigation if they win the appeal. He is concerned for the neighbors and doesn't want to risk the loss of the mitigation funding for the traffic, the risk is too great. He will be voting in favor not to give in but to get the mitigation to offset the safety issues.

Mr. Ovrut noted that he has been working on the procedural history portion of the decision but has no conditions at this time.

Mr. Forster distributed the Submitted Materials portion of the draft to those in attendance.

Atty. Spillane had an updated Mitigation Schedule A for the record, the transfer of land, the fire department access and the Inflow and Infiltration Study has been added to the schedule.

Atty. Spillane also noted that the monetary amount for the fencing has been corrected; the amount now reflects the difference between the 6-foot chain link fencing originally proposed to the 7-foot wooden fence that was negotiated with the neighbors. The difference in the cost is \$32,375.00

In regards to the requested waivers for the project, Mr. Casbarra noted that he reviewed the list with Atty. Spillane and Mr. Buckley and feels that they are appropriate for the project and are acceptable as presented.

Mr. Forster asked about blasting if it is necessary. Mr. Casbarra noted that it is regulated through the fire department; they would conduct surveys of the neighboring homes before and after the blasting. The applicant is also required to have proper insurance for blasting.

Mr. Forster asked if there were any further neighbor questions, there were none. An email had been received after the last meeting from abutter Ann Marie Piscitelli who stated her questions were not answered. Mr. Forster asked if she was in the audience twice but she was not.

A motion to grant the 40B Comprehensive Permit to Hanover R.S. Limited Partnership for 248 rental apartments at Fisher and South High Street subject to mitigation and conditions and that a draft decision be prepared was made by Mr. Ovrut and seconded by Mr. Brown. The motion carried 3-0-0.

Mr. Wilmer noted that the decision needs to be filed within fourteen days from today unless an extension is granted by the applicant.

Atty. Spillane and Atty. Horwitz are amenable to granting an extension to September 17, 2015 to file a decision.

Once the decision is finalized it will be put on the town website.

## **GENERAL BUSINESS**

### **Minutes**

The Board reviewed the minutes of June 30, 2015 and July 16, 2015.

A motion to approve the minutes of June 30, 2015 and July 16, 2015 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 5-0-0.

**144 Main Street 40B Application**

A new 40B Comprehensive Permit application has been received from Joe Lynch for 8 single family homes at 144 Main Street. Does the Board wish to apply for another 40B technical assistance grant from Mass Housing? Mr. Wilmer recently was hired by MAPC and can no longer be a consultant.

A motion to apply for the Chapter 40B Technical Assistance Grant from Mass Housing was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 5-0-0.

The application also needs peer engineering review.

A motion to instruct the applicant to forward the application and plans to Beals and Thomas for peer engineering review was made by Mr. Behn and seconded by Mr. Ovrut. The motion carried 5-0-0.

**Board Membership**

Mr. Forster would like to step down as Chairman and be appointed an Alternate Member. He will submit a letter to the Town Manager to this effect.

The Board will then need to appoint one of the Alternate Members as a full member. Mr. Brown would be willing to step up to full membership.

The meeting was adjourned at 8:15 p.m.

Respectfully Submitted,

Diana Gray

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Signed on behalf of the Board

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Kristofor Behn, Clerk