



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
March 19, 2015**

Members present: Chairman Neil Forster, Vice Chairman Barney Ovrut, Member Kim Mellen, Alternate Kris Behn, Town Planner Sharon Wason and 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.

7:00 p.m. Continued Public Hearing - Louis Soldani requests a Special Permit from Section 5.4.2 of the Code of the Town of Foxborough Chapter 275 - Zoning Bylaws to allow the reconstruction of a nonconforming single family dwelling which exceeds the habitable floor area by 25% or more at 14 Maple Avenue. The property is located in the R15 Residential Zoning District. Rob Truax was present representing Mr. Soldani, who was not available this evening. Mr. Truax distributed aerial photos of the site. Mr. Truax stated that there are two dwellings on one lot; there is an existing multi-family dwelling in front of the proposed reconstruction. This application deals with the smaller home on the parcel. The existing structure is a 26' x 26' single story home that Mr. Soldani would like to demolish and construct a 30' x 40' three bay garage with a three bedroom apartment above it. Mr. Truax stated that Mr. Soldani has told him that he will occupy the new apartment himself with his family. This reconstruction is an increase of the habitable floor area beyond 25% which requires a Special Permit; all other setbacks including height will be met.

There are no occupants in the building right now, they moved out last fall. The property contains six units with eight parking spaces and three garage bays.

Abutter Steve Andberg of 12 Maple Street commented that the original house dates back to the 1900's. He is a direct abutter and is concerned with the size of the new structure as he will be able to see it out of the back window of his house. He is also concerned that trees may need to come down which would reduce the buffer between his house and this one.

Karen Andberg of 12 Maple Street asked if another driveway would be necessary and also has concerns about future uses of this new structure.

Ms. Mellen is acquainted with the Andberg's and feels she should recuse herself from this hearing. Mr. Behn will step in as a voting member for this hearing.

Mr. Behn commented that the decking proposed around three sides of the structure further enlarges the new building.

Mr. Ovrut questioned if this would be substantially more detrimental to the neighborhood and is concerned with the garage having three bays. Mr. Truax stated that Mr. Soldani already stores staging and ladders at this location for his carpentry business.

Mr. Casbarra stated that Mr. Soldani could build in the existing footprint with a second floor without a Zoning Board hearing.

The Board would like to be able to hear from Mr. Soldani. Mr. Truax stated that he would be back by the next meeting.

A motion to continue the hearing for 14 Maple Street to April 16, 2015 was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 3-0-0.

7:10 p.m. Continued Public Hearing - Fox Comm Way, LLC. requesting a Comprehensive Permit pursuant to Chapter 40B of the Massachusetts General Laws to approve 20 detached single family homes, 25% of which will be affordable to household earning no more than 80% of the area median income. The property, known on Assessors Map 084 as Parcel 2060 is located at 8 Community Way. Atty. Jeff Lovely and applicant Joe Lynch were present. Mr. Forster noted that he attended two off site meetings to review the draft decision with the applicant. No changes to the proposal or votes were taken during these meetings. Issues to be discussed this evening include the number of units, access to the property and mitigation. Mr. Forster stated that he would prefer to see 16 units over 20 units and is concerned that there will be no green space for the resident's children and the lack of sidewalks to the nearby school.

Mr. Ovrut has reviewed the draft decision and wanted to commend Ms. Wason in putting it together.

Ms. Mellen has concerns with screening.

A letter was received from abutters Dave and Dawn Minkin and Joe and Linda Derba of Brandon Lane, responses to their concerns were received from Beals and Thomas and Atty. Lovely.

The Board then reviewed the draft decision. The Board has concerns with the condition addressing access to the property of others during construction and access to town property during construction. This will be split into two conditions.

There was a discussion on the sidewalk mitigation condition, where it should be located and the length to be reconstructed. It was decided that two sidewalks will be constructed, one on the northerly side of Community Way and the other on the northerly side of the site driveway. If any changes are requested, written permission must be sought from the Building Commissioner.

A motion to have the applicant continue the sidewalk on the north side of the site driveway to between Unit 8 and Unit 9 that will be in compliance with ADA regulations and if any changes are requested, written permission must be sought from the Building Commissioner was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 3-0-0.

A motion to have the applicant construct a sidewalk from the site driveway to Cocasset Street along the northerly side of Community Way that will be in compliance with ADA regulations and if any changes are requested, written permission must be sought from the Building Commissioner was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 3-0-0.

The Board discussed the applicant contributing \$10,000 to the renovation of the Ella Hill playground if the town decides to move forward with its renovation. The abutters were concerned that children would cut across their property to go to the playground. Ms. Wason noted that the Selectmen would determine the use of the playground; the ZBA just determines the amount of the contribution.

A motion to set the amount of the applicant's contribution to the restoration of the Ella Hill playground at \$10,000 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board then discussed the number of units.

A motion to permit the construction of twenty units as part of the requested Comprehensive Permit for Wyman Village at 8 Community Way was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 2-1-0 with Mr. Forster voting against the motion.

The Schedule of Residential Units will be attached to the decision as Exhibit B. This chart states how the three different styles of units will be distributed.

A motion to attach the Schedule of Residential Units to the decision as Exhibit B was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

Atty. Lovely has submitted an updated request for waivers. The Board reviewed the list. The request for a waiver from the earth removal bylaw was denied, there will also be no waivers from other department fees.

A motion to approve Exhibit A - Waivers Granted as amended with appropriate revisions to be made was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to approve the Findings and Conditions of the Comprehensive Permit Decision for Fox Comm Way LLC as amended in regards to Conditions A9, C3, C12, E3 and J4 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to approve the decision for Fox Comm Way LLC as amended was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion to grant the Comprehensive Permit as set forth in the Decision with attached exhibits and plans was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

7:20 p.m. Continued Public Hearing - 91 Washington Street Investors LLC c/o Foxstar Corp. requests a Special Use Permit to install a free standing billboard at 91 Washington Street.

The applicant has requested to withdraw this application without prejudice.

A motion to accept the request for a withdrawal without prejudice for 91 Washington Street was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

Informal discussion with Frank Spillane on proposed Hanover Group Comprehensive Permit – Fees. The Board met with Atty. Frank Spillane and Hanover representative David Hall in regards to the upcoming 40B application for Fisher Street. They would like to discuss the fees, meeting dates and the hiring of a consultant.

Atty. Spillane explained that the application fee has been calculated at \$40,500 which is \$50 for each affordable unit and \$200 for each market rate unit. They are proposing 248 units in total. Atty. Spillane proposes using the Planning Board fee for a site plan plus \$1,000 contingency with the remaining amount put in escrow to pay for the engineering consultant. The buildable portion of the site is 10.7 acres which, at \$1000 per acre, would calculate to \$11,700 + \$1,000. This would allow \$29,800 to be put in escrow. It was noted that the Foxborough Lodge project was similar except that the buildable portion of the site was 13.75 acres at \$600 per buildable acre.

The Board discussed availability for upcoming meetings; Mr. Ovrut will be away during the June meeting. Additional meeting dates may be needed.

A meeting will be scheduled for April 30th just for this hearing.

Minutes

The Board reviewed the minutes of February 19, 2015.

A motion to approve the minutes of February 19, 2015 was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 4-0-0.

Member Resignation

Alternate Member Kevin Penders has submitted his resignation from the Board.

A motion to accept the resignation of Kevin Penders effective immediately was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

Mr. Behn has agreed to be appointed a full member and Ms. Mellen will step down to an Alternate Member.

A meeting will be scheduled with the Board of Selectmen for the appointment of a new Alternate Member to replace Mr. Penders.

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kristofor Behn, Clerk