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**ZONING BOARD OF APPEALS
Ipswich, Massachusetts**

**Meeting Minutes
July 25, 2019**

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Chronicle, a newspaper of general circulation, the Ipswich Zoning Board of Appeals held meeting on Thursday July 25, 2019 at 7:00 p.m. in Room A, Town Hall, 25 Green Street, Ipswich, MA. Members attending were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton Robert Clocker, Associate Member Justin Planasch and Marie Rodgers, Administrative Assistant. Also present Jon Whitten special counsel for the Board. This meeting was recorded by ICAM.

Citizen Queries: There were none.

Continued Public Hearings:

30 and 34 Town Farm Road and 17 Locust Road Kieran McAllen requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct 40 age-restricted for-sale dwelling units (20 duplexes), of which 25% would be subsidized for low to moderate income use. (Assessor's Map 30B, Lots 63, 37A and 33) (continued from the May, 2017 through June 2019 meetings) Chairman Gambale read the legal notice and re-opened the public hearing at 7:40 p.m.

The Petitioner was present with his Attorney Richard Kallman who referenced the request made by the Board and spoke to his submittals of document titled Design History MEMO dated 7/25/19. Due to ICC review, and the issue of the water main the development has been revised to 24 units; a reduction of 40%.

Patrick Bower P.E. Amoskeag Engineering consultants, PLLC presented the development history and reviewed the variations of the five plans, starting from the first in April 2017 through the last version in December 2018. The main issue is the 16-inch transmission line. Mr. Bower said there were many conversations with Vickie Halmen, Water & Wastewater Director; it was agreed not to replace the line, but to leave it in place with all structures located out of the easement. They will meet with her prior to construction. Ms. Halmen and a representative from the Conservation Commission will be on site when site work begins.

The roadway through the development will be one-way traffic only; on a 24-foot wide drive. Mr. Bower related his conversations with abutters and there will be a stockade fence between the development and the abutter.

There will be an O&M plan for the homeowners association, no sidewalk, and the country drainage provides a compact gravel shoulder; in response to the Board's query; Mr. Bower affirmed that the gravel shoulder will support fire truck apparatus.

ZBA member Rob Clocker asked questions about the design of the buildings and asked for additional plans. Mr. Bower said he would provide a cut sheet on low flow and energy saving designs.

Bill Wasserman, 193 Argilla Road asked about affordability; six of the units will be affordable; Keri MacRae, 31 Heartbreak Road asked about country drainage. The Board requested a landscape plan showing pictures of the types of trees and incorporate heights at maturity. The applicant said Mara Robinson will attend the next meeting.

Chair continued the hearing to the August 15, 2019 meeting, in room A, at 7:30 p.m.

Documents and exhibits used by the Appeals Board: June 19, 2019 – GM2 Cammett Peer Review dated 4.23.2019 - 5pgs – date change to June 17, 2019
July 22 2019 Rev -SITE Town Farm Rd dated 7.16.19

July 22 2019 Landscape rev dated 7.15.19

July 22 2019 Response-Peer Review-applicant to Cammett dated 7.16.19

July 23, 2019 – 2 emails – Design History MEMO dated 7/25/19 and ZBA meeting Summary from April 2017

26-44 Essex Road - Essex Pastures, LLC requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income at 26 Essex Road (Assessor's Map 54A, Lot 14A) 36 Essex Road (Map 54C, Lot 22); 38 Essex Road (Map 54C, Lot 22A) 42 Essex Road, (Map 54C, Lot 23) and 44 Essex Road (Map 54C, Lot 24). (continued from the June 2018 through June 2019 meetings)

Chairman Gambale read the legal notice and re-opened the public hearing at 8:30 p.m. Attorney Jon Whitten was present representing the Board. Also present was Clifford Boehmer, AIA, Davis Square Architects, Inc. peer reviewer for the Board.

The Petitioner was present with his Attorney John Smolak, Bree Sullivan Bayside Engineering and Edward Marchant, financial advisor. Attorney Smolak provided updates from conversations with town officials. He spoke to his efforts to meet with interim Conservation Agent Bill Decie to determine the resource area in back of the property; no meeting has yet taken place. Representatives of the applicant spoke with Chief of Police and will let the Chief report back for himself. And they will follow up with written correspondence.

Attorney Smolak spoke to DEP requirements concerning sewer inflow and infiltration and after speaking with DEP Waste Water Section Chief, Ipswich is not subject to mitigation requirements. Ipswich does not have any CSO's (combined sewage and drainage overflow) systems. And they will follow up with written correspondence.

A response to the Select Board letter, dated July 1, 2019 is forthcoming. He spoke to water mitigation plan and opined that penalties were not appropriate and this project should not be singled out; proposed water usage is comparable to the Powder House Village development and similar water conservation measures will be used.

Ms. Sullivan reviewed the latest changes, signage, wooden guard rail and fencing. The current 6-inch water main is inadequate, the applicant would replace it with an 8-inch main from the subject property to County Road, at his expense.

She spoke to recommendations from the Select Board and IRWA letters concerning grass, turf grass will be used. To reduce impacts on the storm water systems, treatment will exceed state standards, de-icing, will mimic DOT techniques of using a mix of salt and sand in sensitive areas.

Chair read a letter into the record from Helen Weatherall, 44 Fellows Road. Discussion followed regarding walls, contour grades, storm water treatment and screening, function of walls, sounds produced bounding off of hard surfaces and solar. Attorney Smolak will follow up with Conservation regarding shrubs and trees; he said solar panels are not in the program.

Chair Gambale initiated discussion regarding the Fire Chief's letter. Ms. Sullivan referenced the different plans showing turning radius in accordance with state regulations; she will revise plans to show the landscape and light poles at the edge of roadway as requested by the Fire Chief.

Attorney Smolak cited the code requirements and the proposal is code compliant with fire and building code. Attorney Whitten stressed that the Fire Chief's comments were very specific; in this case the Fire Chief acts as an advisor to the Board in terms of public safety. He advised the Board to heed the Fire Chief's recommendations and suggested redesign of the project to address his concerns.

Mr. Fierro questioned the Fire Chief's remarks and questioned what the comments were based on.

Discussion followed concerning comments about fighting a fire away from the collapse zone, which is a distance one and one half the height of the building.

At the suggestion of the Chairman, Attorney Smolak agreed that a member of the Zoning Board would be included in all future meetings with town officials.

The Board further discussed the Fire Chief's letter and Mr. Clocker read the entire one page letter, out loud. Attorney Smolak indicated that further research is required and they will find out what the Chief does with other buildings in town.

Helen Weatherall, 44 Fellows Road expressed her interpretation of the Fire Chief's comments; the Chief would not allow firefighters in the space between the buildings; it is not a safe space to fight fire; she expressed concerns about hearing the words of maybe, possibly, probably and opined the previous 40B discussion for Primrose, in stark contrast with regards to preparedness.

Keri MacRae, 31 Heartbreak Rd spoke to the landscaping particularly in the right corner of the property, which abuts her property. She also expressed concerns regarding the Fire Chief's comments pointing to the scale and size of a project, in a small town that does not have the resources; it belongs in a city.

Decibel levels were discussed. Ms. Sullivan related her analysis. Chair requested an acoustical study to determine a definitive noise level.

Cliff Boehmer Davis Architects, Peer reviewer for the Board presented his review based on plans dated 5.29.19 not the 7.18.19 plans. Landscape is not within his realm of expertise.

He shared his understanding regarding Fire Safety Code; in 2018 the National Fire Protection Association published a new version in 527 CMR Fire Safety Code. It included the discretionary powers of the fire chief.

He spoke to the entry ways of the town house units and the accessibility code not exempt from group 1 as outlined in his report (hereby incorporated by reference) He suggested the Petitioner seek advice from the Mass Architect Access Board.

Mr. Boehmer listed changes made and many good ideas, making the plans better. He expressed his main concern regarding the un-articulated buildings foot print; breaking up parking and the pedestrian experience and quality of life for the residence. He suggested reducing the number of units, break up the mass, create more space for landscaping and create smaller scale; add screening to mitigate scale of structures.

He commented on the fire chief's letter and he shares the concerns and feels the development would benefit from additional space between the buildings as well as, reducing the scale and adding more recreational spaces.

Attorney Smolak suggested another workshop; with regards to the design, he said 'boxy' is in the eye of the beholder. He felt further discussion and workshop would be beneficial. Mr. Clocker said he was willing to attend and asked for the Petitioner's team to produce some sketches with ideas discussed.

Keri MacRae, 31 Heartbreak Rd repeated her opinion that the scale of the development does not currently exist in Ipswich and expressed concerns for outstanding issues and expressed frustration regarding the minimal changes.

She continued to discuss the location for school bus stop. The School department submitted a letter indicating that buses will not enter private property.

Chris Florio, 44 Fellows Rd expressed his frustration regarding the process and lack of redesign, the fire chief's letter; comments made by the applicant regarding DEP waste water regulations; (this development) is inappropriate size for the town of Ipswich. He spoke to recent possible affordable housing added to the count. He urged the Board to keep pushing to make it more appropriate for the town

Kerry Mackin, 76 Little Neck Road spoke to the limitation of water availability and a development this size exceeds Title 5 guidelines of 38,000 gallons a day. It will be an environmental degradation of the town water supply; she opined the water is a real issue for concern.

Attorney Whitten noted that 40B does not waive provisions for the water supply; until waivers are granted, the project must comply with state and local laws.

Chair requested an extension of time; Attorney Smolak agreed to submit an extension to October 31, 2019.

Chair continued the hearing to the August 15, 2019 meeting in room A at 7:30 p.m.

Keri MacRae, 31 Heartbreak Road questioned if the Board will hire peer review for the storm water management. Chair indicated that he has met with Vickie Halmen and will schedule future meetings. She urged the Board to pursue peer review for storm water management.

Chris Florio, 44 Fellows Rd questioned the traffic study since the project was amended with the new retail 12,000 S.F.; it lends itself to additional traffic.

Attorney Smolak said he will provide an update on traffic impacts (#units 170)

Documents and exhibits used by the Appeals Board: July 1, 2019 – letter from Select Board dated 7.1.2019; July 22 2019 ZBA Ltr dated 7_18_19; July 22 2019 Technical Memo - 7-18-19 Bayside Engineering; July 22 2019 Revised Waiver List 7_19; July 22 2019 Gravity Retaining Wall; July 22 2019 PROPOSED Site Plan-RET WALL SECTION; July 22 2019 SITE PLAN 7-18-19 July 22 2019; Wood Guardrail; July 22, 2019 – email from Weatherall with two letters attached; July 23, 2019 – email comments from Chief Andy Theriault, Ipswich Fire Department

New Public Hearings:

120 County Road, ROLE Realty Trust, Roger LeBlanc, Trustee requests a special permit pursuant to II.B.1.a to alter the current non-conforming 'Hotel/Motel' use, to allow cooking facilities in rooms with non-transient occupancy (multifamily development), or alternately, request a variance under XI.K to change the current non-conforming use to alter the efficiency dwelling units, to primarily single room occupancy units, with a density of one per 1,375 square feet of land in the Highway Business District. (Assessor's Map 54A, Lot 9)

Chairman Gambale read the legal notice and opened the public hearing at 10:00 p.m.

The Petitioner was present with his Attorney David Ankeles who presented the proposal; discussed the history of the property and cited compliance with the bylaw at length.

Chair read a letter from the Director of Planning and Development who opined that the proposal for change in 'use' would require a Variance. Additionally, relief from the Planning Board would be required.

Joseph McGowan, 6 Essex Road #17 discussed the history of the units with cooking amenities and questioned the use.

Discussion followed. A site visit was schedule July 27th, 2019 @ 9:00 a.m. on site. Petitioner welcomed abutters and neighbors to visit the site.

All parties agreed, to continue the he public hearing to August 15, 2019 in Room A at 7:30 p.m.

Documents and exhibits used by the Appeals Board: Petition and associated documents. Email dated 7.30.19 from Ethan Parsons, Director of Planning & Development and Terry Anderson Housing Coordinator for the Town of Ipswich; Letter dated 7.25.2019 to the Board from Ethan Parsons, Director of Planning & Development.

29 Woods Lane (Assessor's May 42A/Lot 009) **Brian and Seraphima McLean** requests a special permit pursuant to XI.J and II.B.3 and VI Table of Dimensional and Density Regulations footnote 2 to reduce the right side setback to no greater than the 50% of the required 40' to construct an addition to a single family dwelling. Chairman Gambale read the legal notice and re-opened the public hearing.

Petitioner was present with Carl Gardner to explain the proposal to construct an addition on the right side of the house. The existing single family dwelling legally existing non-conforming.

Chairman read two letter of support from direct abutters on Woods Lane; no one appeared in opposition to the petition.

The Board found that the single-family dwelling was located in the RRA District and was non-conforming due to both insufficient lot size and right side setback. In addition, the lot is unusual in shape and therefore it had the authority to issue a special permit and grant relief pursuant to Footnote 2 to the Table of Dimensional and Density Regulations to reduce the right side setback no greater than 50% of the requirement.

The 368-square foot addition will encroach on the right yard 51.5 feet setback; the relief requested is for 16-feet.

The house is non-conforming and is only in compliance with the rear yard setback. It will be heated and accessed only through the house.

Mr. Fierro reviewed the criteria for a special permit: the side setback for principal structure in the RRA district is 40-feet; it is a non-conforming lot .321 square feet; house was built in 1900's. Findings the benefit to the Town outweighs the adverse effects of the proposed use or action, taking into account the characteristics of the site and proposal in relation to that site; the addition will increase value of the house; applicant provided a sufficiently detailed plan

The Board reviewed the special permit criteria under section XI.J.

MOTION:

Mr. Clocker moved that the Board make finding that the criteria for a special permit have been met by the applicant. Mr. Fierro seconded, the motion passed unanimously.

MOTION:

Mr. Clocker moved that the Board grant the special permit to increase the right yard setback from 51.5-feet to 35.5-feet to construct an addition as show on plans submitted in the application titled PLOT PLAN 29 WOODS LANE, IPSWICH, MA land of Seraphima & Brian McLean dated 5.16.2019. Ms. Gayton seconded, the motion passed unanimously.

Documents and exhibits used by the Appeals Board: Petition and associated documents; 2 letters of support from abutters at 26 and 27 Woods Lane.

25 Pleasant Street – continued to 8.15.19

Chair announced the continuation of the public hearing for the Comprehensive Permit at **25 Pleasant Street** to the August 15, 2019 meeting at 7:30 p.m. in room A.

Documents and exhibits used by the Appeals Board: July 25 2019 - request to *continue public hearing* to 8.15.19 signed Paul Ross, Esq. July 18, 2019 - Agreement for Extension of Time to Friday October 18, 2019 signed Paul Ross, Esq.

Approval of Minutes:

Minutes were tabled.

Adjourn - It was moved, seconded and unanimously voted to adjourn at 11:06 p.m.

Respectfully submitted,
Marie Rodgers

These minutes were approved on August 15, 2019 with minor edits.

Pursuant to the 'Open Meeting Law' the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.