

**MEETING OF THE
CITY OF WOBURN
BOARD OF APPEALS
MARCH 30, 2016 – 7:00 P.M.
COMMITTEE ROOM
WOBURN CITY HALL**

Attending: Chair Margaret Pinkham, Member Daniel Parrish, Member John Ray, Member John Ryan, Member Edward Robertson and Alternate Member Sheila McElhiney

Discussion of pending filing of an application by Mill Street Property Group LLC for a comprehensive permit pursuant to M.G.L. Ch. 40B for property on Mill Street. Chair Pinkham thanked the petitioner for its response to the Board's letter of March 17th. In response to the Chair's questions, Project Engineer Chris Sparages, William & Sparages, 189 North Main Street, Suite 101, Middleton, MA 01949, explained that they decided to use the plan to show street widths; that there is not one continuous width; that variable widths is very common; that there was a revision to C-1; that there 40' width in the immediate proximity of the site; that (original) C-8 states that all is 40' which they know from many sources (i.e. plans of record); that the street was laid out in 1795; that some plans state 33' wide; that they researched all of the Deeds; that there are some widths that aren't determined by survey (i.e. rods/pins); that they have come across widths of 40' and 33'; that Mill Street and Salem Street doesn't intersect. Attorney Regnante added that the same Stormwater Report is being submitted to the Conservation Commission because there is a regulation to file with other jurisdictions before ConCom; and that some of the waivers are moot but the Engineer will review. A range of discussions resulted in the following motions:

The applicant had submitted one original and nine copies thus far, following discussion, it was agreed that the applicant would provide four more copies for distribution. Section 3.02 Contents of Application: Motion was made and seconded to amend requirement of 3.02 to require applicant to produce 13 copies of the application, and if additional copies are requested in the future, applicant will provide such copies. The Vote was all in favor, 5-0.

Section 3.02(a): The Board was amenable to the 1"=20' scale. Motion was made and seconded to allow plans to be submitted in 1"=20' Scale. The Vote was all in favor, 5-0.

Section 3.02(e): It was noted that the southerly lot on the plan should be noted as Lot 06 (not duplicate Lot 05). Mr. Sparages stated that they went by the Assessors' records since there was no street address. Motion was made and seconded to grant waiver from depicting lot number on plans. The Vote was all in favor, 5-0.

Section 3.02(f): Mr. Sparages explained that Mr. Lichoulas has rights of access over 43 and 45 Mill Street, providing for emergency access, proposed parking and landscaping; that each piece of land has its own deed; and that all existing structures are located by survey and are being

razed. Attorney Regnante added that under 40B, they could come in with a Compilation Plan for the Board to sign. Motion was made and seconded to grant waiver for dimensions on square footage for existing buildings. The Vote was all in favor, 5-0.

Sections 3.02 (i) and 3.02 (j): Mr. Sparages explained that these two go together; that there is a little difference in landscape plan; that the calculation was done on an index plan; that the Zoning Ordinances required 50% of useable landscape space; that they fall short at 48% but that they come very close; that it is noted on the plan but is not exact. Responding to Chair Pinkham's question of the definition of 'landscape area', Mr. Sparages noted that it was a good question; that he would define as 'anything planted', any area that is impervious; and that they will prepare a colored rendering which he can have a reviewer look at and highlight for visual effect. Member Ray questioned the calculation of 48% noting that if a HydroCAD (sp?) was used, he sees the calculation as 26%, to which Mr. Sparages stated they would be happy to give the information within one week. Waiver request withdrawn by petitioner's attorney, Ted Regnante.

Section 3.02(k): There was discussion of the sloping in and around the locus, which Mr. Sparages stated that they can add details of the contours as Chair Pinkham expressed interest of knowing the elevations of Lots 43 and 45, and that GIS elevations are acceptable. Motion was made and seconded to grant waiver for contours as to the Interstate Highway, with Applicant to provide GIS contours on abutting residential properties. The Vote was all in favor, 5-0.

Section 3.02(n): Attorney Regnante believes this is now moot, as it's included in the Stormwater Report. Withdrawn by petitioner's attorney as moot, Ted Regnante.

Section 3.02 (o): Motion was made and seconded to grant waiver and accept locus plan as it exists. The Vote was all in favor, 5-0.

Section 3.02 (s): Withdrawn by petitioner's attorney, Ted Regnante. (covered in Stormwater Plan)

Section 3.03 Filing Fees: Attorney Regnante stated that they have no problem with the financial review in that it comes with the project; that the fees for legal counsel are prohibited under case law; that they assume they will as for peer review which they will do; that they asked for a waiver as it was being requested at this time with the application; that the waiver is with respect to the filing; that he does have a problem with the request for legal fees. Chair Pinkham felt the term 'waiver' is a strong word to which Attorney Regnante stated that they are hoping to work with the Board and the abutters, and that they are not requesting anything post-filing. Motion was made and seconded to waive the payment of \$10,000 for legal counsel in connection with the filing of the application and suspend payment of \$5,000 for financial review until such time as the Board deems payment is appropriate. The Vote was all in favor, 5-0.

Section 6.00 Changes in Application: Chair Pinkham read Section 6, specifically 6.01. Attorney Regnante explained that they are not asking for waiver of 6.02 but as for 6.01, it wouldn't go back to the subsidizing agency which he believes to be the policy of the agenda as opposed to case law; that the subsidizing agency doesn't get involved until the Board or courts have

finished. There was discussion of different examples of what could be considered substantial change therefor effecting the eligibility letter. The discussion resulted in Attorney Regnante concedes that he may be able to get a letter from MassHousing but he doesn't want to agree to go back to MassHousing; that he will ask them; requests a waiver for filing the application; and that under case law, the Board has to determine safety, housing,... Chair Pinkham acknowledged the risk of material change in the process is slim; that the Board has seen material change with a Modification; that in this matter where the applicant is deliberate; and thinks it unlikely for material change. Motion was made and seconded to suspend the requirement of 6.01 for purposes of filing the application with all parties reserving their rights going forward. The Vote was four in favor, one opposed (Ryan), 4-1.

Public Hearings were scheduled for April 27, 2016 at 7:00 pm and May 25, 2016 at 7:00 pm.

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The next regular meeting of the Board of Appeals will be held on April 20, 2016.

Motion made and 2nd to ADJOURN, all in favor, 5-0.

Meeting adjourned at 9:02 p.m.

Patricia Bergeron-George
Clerk of Committees