



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

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

Members present: Chairman Neil Forster, Vice Chairman Barney Ovrut, Member Kim Mellen, 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. 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. Mr. Soldani is not available this evening and has submitted a letter requesting a continuance to the March meeting.

A motion to continue the hearing for 14 Maple Street to March 19, 2015 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

7:10 p.m. Sage Realty Trust requests an extension to Comprehensive Permit 09-11 Nadia Estates located off of Mechanic Street on land known as Assessors Map 20, Parcel 409. Mr. Paul Cusson Managing Member of Delphic Associates, Sage Realty's housing consultant, appeared before the Board with Mohammed Itani, Trustee of Sage Realty. Mr. Cusson submitted a letter dated January 23, 2015 asking for a three year extension to this 40B project. Ms. Mellen read the letter into the record. This project was approved on September 22, 2010 but was appealed by a neighbor. The lawsuit was dismissed in September 2012; Condition #38 of the Comprehensive Permit states that the permit will expire if construction work does not begin within three years from the issuance of the Board's decision or the resolution of any appeals, which would be September 2015.

The letter also required the Board to determine within twenty days whether the proposed change to the Comprehensive Permit is "substantial" or "insubstantial." Mr. Cusson granted an extension to the twenty day period to February 21, 2015 in a follow up email dated January 26, 2015.

The original permit was amended in April of 2012 with a corrected amendment in May 2012 with the settlement agreement terms.

Mr. Forster would like to know the reason for the request. Mr. Cusson and Mr. Itani stated that the project has not been built due to market conditions. Mr. Cusson thinks this is should be regarded as an insubstantial change; if it is deemed to be a substantial change, a public hearing will be required.

Mr. Ovrut thinks that a three year extension would be a substantial change but the regulations state that an extension is not deemed a substantial change. Mr. Cusson stated that they are open to discussing the period of the extension.

Mr. Cusson stated that Final approval of the project is still needed from Mass Housing. They still need to get Federal Home Loan Banking financing. This process is expected to take 4-6 months.

Jeff Morrissette of 11 Holbrook Street who is a new owner of his property was interested in what the project entails, there was to be drainage near his property. Mr. Cusson stated that there are no proposed changes to the site plan.

The Board suggested an eighteen month extension which would bring the expiration date up to March, 2017; a building permit would need to be issued by this date. It was noted that any building permit issued would then be good for six months.

A motion to amend Condition 38 of the Comprehensive Permit for Nadia Estates extending the expiration date of the permit by eighteen months to March 10, 2017; a Building Permit must be issued by that date was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

A motion that this request for an extension to the Comprehensive Permit is considered an Insubstantial Change was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

7:20 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. Bill Buckley of Bay Colony reviewed the changes that have been made to the plans since the last meeting. A third style of house has been added that is somewhat smaller than the others which allow the decks to be moved so they are not so close together. The directions of the some of the homes have also been moved to further the separation and make more private back yards. The homes have also been pulled back from the property lines and the train line. The cul-de-sac has been widened to a 42' radius. Landscaping has also been placed between some of the homes and along property lines. This will not result in any changes to the blasting plan.

David Minkin of 1 Brandon Lane asked if any blasting will occur in the ledge area. Mr. Buckley stated that the roadway area will need blasting but they do not anticipate blasting for any foundations.

Mr. Forster still feels that the area will be crowded with homes but appreciates the efforts made.

A draft decision has been prepared and Atty. Lovely suggested that a working session be scheduled to review the conditions.

The Board would like to see the Pro Forma and the financial implications of removing any units.

Linda Derba of 2 Brandon Lane asked if the public would be able to review the conditions before they were voted on.

Joe Derba of 2 Brandon Lane asked if generators would be a requirement since they would be needed for the septic pumps in case of a power outage.

Mr. Ovrut does not have an issue with the number of units, the town's engineering consultant stated that the property could handle the amount proposed; he does question the feasibility of the project.

Atty. Lovely asked about the condition to renovate the offsite playground. Ms. Wason stated that PARC grant funding could be sought which would offset some of the costs.

Mike Jacobs also recommended a working session to work out the details on the conditions which could then be brought back to the Board.

Ms. Mellen agrees that the density of the project will affect people's quality of life but feels that people will make a choice to live in a neighborhood such as this.

Mr. Minkin has concerns with children being directed to the area playground, he feels they will cut across his property to get there and requested fencing be installed.

John Bourgouyne of 20 Community Way is concerned if large vehicles such as trucks will be able to fit into the driveways.

A working session will be scheduled for March 2, 2015 at 10:30 a.m. at the Library.

A motion to continue the Public Hearing to March 19, 2015 was made by Mr. Ovrut and seconded by Ms. Mellen. The motion carried 3-0-0.

GENERAL BUSINESS

The Board reviewed the January 15, 2015 minutes.

A motion to approve the January 15, 2015 minutes was made by Ms. Mellen and seconded by Mr. Ovrut. The motion carried 3-0-0.

Ms. Mellen informed the Board that she will not be seeking re-appointment as a full member due to scheduling conflicts.

The meeting was adjourned at 9:15 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk