



BOARD OF APPEALS  
**TOWN OF FOXBOROUGH**  
40 SOUTH STREET  
MASSACHUSETTS  
02035

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

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

The meeting was called to order at 6:30 p.m.

**Executive Session**

A motion to enter into Executive Session to discuss strategy regarding litigation in the case of Weinstein, et al v Board of Appeals of the Town of Foxboro and Hanover R.S. Limited Partnership with the intention to return to open session at the conclusion of the Executive Session was made by Mr. Brown and seconded by Ms. Mellen. The motion carried by roll call vote Brown – yes, Mellen – yes, Forster – yes, Behn – yes, Ovrut – yes; 5-0-0.

The Board adjourned from Executive Session at 7:00 p.m. and the meeting continued.

**Board Reorganization**

A motion to nominate Barnett Ovrut as Chairman was made by Mr. Behn and seconded by Mr. Brown. The motion carried 5-0-0.

A motion to nominate David Brown as Vice Chairman was made by Mr. Ovrut and seconded by Mr. Behn. The motion carried 5-0-0.

A motion to nominate Kristofor Behn as Clerk was made by Mr. Ovrut and seconded by Mr. Brown. The motion carried 5-0-0.

**FM Partners, LLC request a Special Sign Permit under Section 213-3.C.(1).(g). of Chapter 213 Signs of the Code of the Town of Foxborough to allow a freestanding sign of 132 square feet of area where 75 square feet is allowed to be located on Central Street, a Special Sign Permit under Section 213-3.C.(1).(g). of Chapter 213 Signs of the Code of the Town of Foxborough to allow a freestanding sign of 247.5 square feet of area where 75 square feet is allowed to be located on Foxborough Boulevard and a Special Sign Permit under Section 213-3.C.(1).(b). of Chapter 213 Signs of the Code of the Town of Foxborough to allow an off-premise freestanding sign of 308 square feet of area to be located on Commercial Street (Route 140). The property is located at 369, 381 and 383 Central Street and is located in Sign District 2.** The applicants, Jeff and Alexandra Saletin, were represented by Atty. Frank Spillane. Atty. Spillane explained that they had received Special Permits and a Variance recently for the site at 369 Central Street (Foxfield Plaza). Tonight they are coming before the Board for the signage to the new plaza, both onsite and offsite. When the plaza was originally built, Central Street was Route 140, over the years Route 140 was shifted over to Commercial Street. They have been working with Conservation on getting the Foxboro Boulevard area opened up to improve the site views to the site from Route 140.

They are proposing one sign to replace the current sign on Central Street, one sign to replace the current sign on Foxborough Boulevard and a new offsite sign on Route 140. The Special Permit for the signs was discussed briefly during the bylaw hearings.

Atty. Spillane reviewed the area and height of the proposed signs. The sign on Central Street will be approximately the same size as the current sign with slightly more square footage (132 sq. ft. as opposed to 100 sq. ft.) The Foxboro Boulevard sign will be in approximately the same location and the same approximate size. The materials will be a steel structure encased in brick with internal LED lighting.

The new sign will be located on Commercial Street on land they own; it is proposed to be 32 feet high and 18 feet wide, the same as the Foxboro Blvd. sign with a total of 308 sq. ft. It will be located 100 feet from the pavement and forty feet from Foxboro Blvd. For perspective, the Jake and Joe's sign is 26 feet high and over 100 sq. ft. and the Home Depot sign in nearby Mansfield is 50 feet high.

The internal illumination will be on a timer for the Central Street sign as that is the only one abutting a residential area; it will be turned off at 11:00 p.m. The home closest to the sign is 65 feet away.

The land has already been purchased by the applicants.

Atty. Spillane reviewed the bylaw requirements: the signs satisfy the Design Guidelines, they signs serve the purpose of informing the public of the various businesses on the site, the signs will be visible from the public way, none of the signs will be located near any other signs, they will not adversely impact traffic and public safety and the town will benefit from the redevelopment of the plaza.

Mr. Brown would like a condition that only the names of the businesses in the plaza are allowed on the sign.

There were no abutters present.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Mr. Behn. The motion carried 3-0-0.

The Board immediately moved into deliberations. The Board members discussed how the signage is necessary in order to be able to go from where it is to where you want to be and the size is warranted for the size of the redeveloped property.

A motion to approve the requested Special Sign Permit for FM Partners, LLC as presented with conditions that the Central Street sign shall not exceed 132 sq. ft. in area, 25 ft. in height, the Foxboro Blvd. sign shall not exceed 247.5 sq. ft. in area and 32 ft. in height, the Commercial Street sign shall not exceed 308 sq. ft. in area and 32 ft. in height, the signs shall be located at least 10 feet from the road layout, the signs will be illuminated as indicated and the Central Street sign will be turned off every evening at 11:00 p.m., and only the businesses that are in the plaza and the property owner shall be allowed to advertise on the signs was made by Mr. Brown and seconded by Mr. Behn. The motion carried 3-0-0.

Mr. Forster left for the evening at 7:40 p.m.

## **Overview of the 40B process**

The Town's 40B consultant, Judi Barrett, gave a brief overview of the state 40B application and public hearing process. At the time of the current 40B application, the town was at 8.9% for affordable housing, the state requires 10% so the limit was not yet met. The Zoning Board of Appeals hears all 40B applications on behalf of other town departments and can approve an application, approve an application with conditions or deny an application. The town cannot impose conditions that make a project uneconomic. The Board is responsible for balancing regional housing needs with local concerns such as health, safety, environment, design, open space, planning and other local concerns such as physical characteristics.

There are performance requirement deadlines for the close of the hearing and the time to file a decision. The state regulations are under 760 CMR 56.

The Board can conduct site visits and have a peer review of the project by an engineering firm and the cost is covered by the applicant. Working sessions are also allowed as long as no decisions are made.

This law was made to help produce affordable housing in the state and to balance state needs with community matters as low and moderate income housing that conforms to local zoning is hard to do. The town can request that changes be made to the project based on health, safety, etc.

The town should be concerned with the people who will live in the project; there should be a public benefit for the low and moderate income residents. The applicants can also ask for waivers from the zoning dimensional requirements such as density, setbacks, subdivision regulations, wetlands, Board of Health and ZBA regulations. The town should expect clear waivers, requesting a waiver as shown on a plan is not a clear request.

**Continued Public Hearing - 144 Main Street LLC requests a Comprehensive Permit entitled "Highland Ridge" pursuant to Chapter 40B of the Massachusetts General Law to approve 8 detached single family homes, 25% of which will be affordable to households earning no more than 80% of the median income. The property is located at 144 Main Street.** Atty. Jeff Lovely, 40B consultant Mike Jacobs, Engineer Bill Buckley and Architect Ken Hizak were present as well as applicant Joe Lynch.

Atty. Lovely submitted a response to Beals and Thomas review. He also noted as a procedural issue that the applicant's claim for a constructive approval will be withdrawn if the Board will withdraw the claim that the application is incomplete.

Mr. Ovrut noted that it was the Board's consensus that the application was not complete due to the way the waivers were being asked for, and it will be a Board decision to decide if the application is complete. Atty. Lovely stated that a waiver list and narrative for each waiver will be submitted and requests a work session to review and refine the waiver list.

Mr. Brown feels that good progress is being made on the whole problem and if they have the list by the next meeting, he feels the Board should move forward with the process. He did note that it is cutting into the 180 days that the Board has before the hearing needs to be closed. Atty. Lovely stated that they would be willing to grant an extension if they are making progress at the time of the deadline; Atty. Lovely stipulated that a thirty day extension would be granted if necessary.

Atty. Lovely noted that access for emergency equipment is a big issue for the town so they will be bringing in a National Fire Protection expert at a future meeting to discuss this. Mr. Brown requested that the codes that will be cited be provided in advance.

Atty. Lovely stated that the waivers would be provided within two weeks and they would like a working session to review the waivers before the next ZBA meeting. The Board agreed to this stipulation.

A motion that a substantially complete application was submitted for the Highland Ridge 40B project providing that a comprehensive list of waivers with narration and to schedule a working session before the meeting in November conditional upon the withdrawal of the letter from Atty. Freeman that established constructive approval was made by Mr. Ovrut and seconded by Mr. Brown. The motion carried 3-0-0.

Bill Buckley reviewed the modifications made to the plans since the last meeting. The location and orientation of the homes and dimensions have been added, some of the lot lines were moved for separation, the dimension of the driveways have been added, an additional sheet with turning movements have been added. A zoning block and sidewalk in front have also been added; the garages were also moved to the rear of the homes to create more driveway space. The sidewalk is part of the Governor's Meadow subdivision and the Planning Board will be in charge of enforcing that it is constructed within the state right of way which will be approved by the state.

Mr. Buckley stated that mail delivery will be up to the Post Office how it will be delivered. Mr. Brown would not like to see any mailboxes near the end of the entrance driveway.

A walkway has also been added around the front of the first building and cobblestone details and a split rail fence have been added. The garden area in the back has been moved back from the lot lines and the architectural sheets have been renumbered.

Mr. Buckley appeared before the Board of Health last night to discuss the septic systems but no decisions were made. They will be using Title 5 state code, the Board of Health need to decide if they will allow individual lots with a shared system. The Board of Health has discretionary power on this issue.

The homes are not required to have sprinklers and will comply with all state building codes.

Mr. Hizak reviewed the floor plans as some of the layouts changed with the moving of the garages.

Gerry Preble of Beals and Thomas reviewed his comment letter with the Board. They are asking for clarity of the administrative records in regards to the waivers, a landscape plan, where snow storage areas will be as well as clarity to the driveway width, and ownership of the units and compliance with ADA requirements for the sidewalks. An Operations and Maintenance Plan will also be needed.

Mr. Lovely stated that they are working on the O&M plan and the Home Owner's Association documents.

The Board members asked how the HOA for the affordable units would be determined. Atty. Lovely stated that they would share costs and a reserve will be looked at.

Bill Busch of 6 Weston Ave is concerned with parking, there is no sidewalk on Weston Ave and VanDoorn Ave and if a sidewalk is constructed to Weston Ave guests of the residents will park along their street which is already very narrow; he wanted to know if there could be parking restrictions placed on Weston Ave.

Dave Duffy of 3 Weston Ave asked if a fence could be installed around the common area of the site as part of the landscape plan.

Terrance Riley of 152 Main Street asked if there would be restrictions on using the homes as rental units. Atty. Lovely will look into that but the affordable units need to be owner occupied and the monitoring agents will check up on that annually. Mr. Riley also commented that he feels that the look of this project will not fit into the rest of the area.

Joe Howlett of 148 Main Street noted that there is a pool and a pool house on his daughter's property with a single level home. This project will have two level homes looking right into her pool area; he is concerned for her privacy.

Bob Conrad and Lizanne Higgins of 1 Weston Ave have concerns with the density, the cars on Route 140 drive too fast already and leaving the site will be difficult.

Bill Busch asked what is allowed by zoning on this site. A single family home is what is allowed by zoning.

A motion to continue the Public Hearing to November 19, 2015 was made by Mr. Behn and seconded by Mr. Brown. The motion carried 3-0-0.

**GENERAL BUSINESS**

The Board reviewed the minutes of September 16, 2015.

A motion to approve the minutes of September 16, 2015 as amended was made by Mr. Behn and seconded by Mr. Brown. The motion carried 4-0-0.

The meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Diana Gray

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Signed on behalf of the Board

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Kristofor Behn, Clerk