



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

**Foxborough Zoning Board of Appeals Minutes  
March 17, 2016**

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

Chairman Ovrut 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 - 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.** Applicant Joe Lynch, Atty. Jeff Lovely and Consultant Mike Jacobs were present. In January the Board asked the applicant to present the costs of a six unit development. The applicants stated it would be uneconomic so the Board asked for a pro forma review. The Board's consultant, Judi Barrett, contacted Mass Housing to get a list of consultants and an RFP was sent out. There was not a consultant on board by the February ZBA meeting so a continuance was requested. Atty. Lovely sent a letter on February 19, 2016 granting an extension to the 180 day period to close the public hearing which would have otherwise expired on March 14, 2016; the extension was granted to March 31, 2016. On March 10, 2016 there was a work session with Mr. Lynch, Atty. Lovely, Mr. Jacobs, Ms. Barrett, Mr. Ovrut, Mr. Brown, Town Planner Paige Duncan and Pro Forma Consultant Dave Levy of New Seasons Development.

Mr. Lynch has been submitting information to Mr. Levy as it is requested in order for him to complete his review.

Mr. Levy then made a presentation of his findings. He explained that he has twenty years' experience in Affordable Housing. He looked at the financial pro forma submitted by Mr. Lynch to determine if the project is economically feasible. Mr. Levy distributed his analysis and reports to all present.

Mr. Levy stated that the current eight-home project has a total estimated profit of 10.8% and noted that although this falls within the 40B guideline it is below the generally accepted threshold of 15% profitability for a project to be considered both economically feasible and financeable. He then looked at a five home project and stated that his calculations show that the profitability would be reduced to -3.7% and would be considered uneconomic.

Abutter Dave Duffy asked about the size of the fencing around the common area, Mr. Lynch stated it would be a three foot chain link fence.

The deadline to close the public hearing is March 31, 2016 which is two weeks from this meeting. The Board members asked if the unit numbers would be changing in those two weeks. Mr. Behn would prefer a seven unit project, he does not like the unit located in the front

corner of the development. Atty. Lovely stated that seven units would be uneconomic for them and would be a basis for an appeal.

The Board members reviewed the waivers being requested. Mr. Casbarra stated that the waivers are appropriate for an eight unit development, he also checked with Ms. Duncan on the Planning Board waivers.

Mr. Ovrut noted that if the project is appealed and favor is found for the developer, then the Zoning Board could not impose any conditions on the project at all.

Mr. Levy noted that he did not review a seven unit project; he only looked at eight units and five units.

Mr. Jacobs stated that the subsidizing agency determines the feasibility of the project. The Board would have to state other factors for reducing the number of units.

The Board discussed conditions to be included in the decision.

A Motion to approve a Comprehensive Permit for eight single family detached homes, 25% of which will be affordable to households earning no more than 80% of the median income at 144 Main Street for 144 Main Street LLC with the following conditions: **1.** Board of Health approval shall be obtained for the septic system, **2.** An 8 foot solid PVC fence shall be installed behind lots 4,5,6,7 and 8, **3.** The existing stockade fence shall be maintained along the right side property line which will be met with a 4 foot vinyl coated chain link fence that shall be installed around the open common area to the rear of the property, **4.** The trees in the back of the property shall be maintained except for those affected by the septic system, **5.** Lot 5 and 7 shall have transom style windows installed on the second floor facing the pool area of the abutter at 148 Main Street, **6.** No elevated decks shall be allowed, **7.** A single contractor shall construct the entire project, **8.** Construction order phasing shall be determined prior to the start of construction, **9.** The affordable units shall be identified on the plans and shall not be placed adjacent to each other, **10.** The last building permit shall not be issued until Certificates of Occupancy have been issued for two affordable units, **11.** Seventy percent of the affordable units shall be eligible for Local Preference, **12.** Lot #1 shall not be an affordable unit, **13.** The sidewalk on Route 140/Main Street shall be constructed (Side note, The developer of Governor's Meadow, the subdivision behind this project, is supposed to construct a sidewalk from Weston Ave to the crosswalk for Stop and Shop which would go past this lot), **14.** Prior to construction a Definitive Site Plan will be submitted for review by the ZBA and the Building Commissioner which shall address all the deficiencies noted in the November 19, 2015 Beals and Thomas review letter, **15.** Construction hours shall be Monday - Saturday from 7:00 a.m. to 7:00 p.m., there shall be no construction permitted on Sundays or Holidays was made by Mr. Brown and seconded by Mr. Ovrut. The motion carried 2-1-0 with Mr. Behn opposed.

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

Atty. Lovely requested a working session to review the decision before the next meeting.

## **GENERAL BUSINESS**

### **Minutes**

The Board reviewed the minutes of February 24, 2016.

A motion to approve the minutes of February 24, 2016 was made by Mr. Brown and seconded by Mr. Behn. The motion carried 4-0-0.

**Membership Issues**

Mr. Forster does not intend to renew his associate seat on the Board. A new member will need to be found. Mr. Behn stated that his travel schedule will be increasing in the upcoming months so he will not always be available.

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

Respectfully Submitted,

Diana Gray

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Signed on behalf of the Board

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Barnet Ovrut, Chairman