



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

**Foxborough Zoning Board of Appeals Minutes  
July 21, 2022**

Members present: Members Barney Ovrut and Associate Member Lorraine Brue and Kurt Yeghian were all present in person, members David Brown and Kim Mellen were present via zoom video.

This meeting was held in person with the Zoom video platform also available; it was also being broadcast on Foxboro Cable Access.

Chairman Barney Ovrut opened the meeting at 7:00 p.m.

**Board Reorganization**

A motion that the Zoning Board of Appeals members retain their current seats being Barnett Ovrut Chair, David Brown Vice Chair and Kimberly Mellen Clerk was made by Ms. Mellen and seconded by Ms. Brue. Roll call vote: David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

**Minutes**

The Board reviewed the minutes of June 30, 2022.

A motion to approve the minutes of June 30, 2022 as amended was made by Ms. Brue and seconded by Mr. Yeghian. Roll call vote: Lorraine Brue – yes, Kurt Yeghian – yes, David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

**7:30 p.m. Continued Public Hearing - 119 Morse Street Realty Trust requests a Comprehensive Permit under the Local Initiative Program pursuant to Mass General Laws Chapter 40B, Sections 20-23, to construct 52 condominium residential units, 25% of which will be affordable to households earning not more than 80% of the Area Median Income. The property is situated at 119 Morse Street in the General Industrial District and is in a future aquifer area overlay district.** Mr. Brown disclosed that he had filed a Disclosure of Conflict of Interest with the Town Clerk's office and he had also filed a Mullen's Petition that he reviewed the video of the June 30, 2022 hearing. Mr. Ovrut stated that the voting members on this hearing would be Mr. Ovrut, Mr. Brown and Ms. Mellen. The applicant was represented by Engineer Bill Buckley, Consultant Bill Casbarra and Traffic Engineer Jack Gillon.

Mr. Ovrut then recapped what has transpired since the last meeting. A sitewalk of the property was taken by Board members on July 13, 2022.

Mr. Ovrut then reviewed the comments that have been submitted from the applicant, town departments and members of the public. It was noted that all correspondence received has been posted on the Zoning Board of Appeals page on the town website, it is also available at the Planning Office at Town Hall.

A motion to waive the reading of the correspondence received and to enter the correspondence into the record for the 119 Morse Street hearing was made by Mr. Brown and seconded by Ms. Mellen. Roll call vote: David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

Mr. Ovrut noted that Ms. Mellen had once commented that the Board appreciates all comments that are received and listens and considers all concerns when making any decisions on any applications before the Board.

Mr. Ovrut then reviewed a summary of the issues that need to be discussed: traffic and safety, environmental issues, density of the project and the ability of the Board to deny the project based on the town being over the required 10% of affordable housing.

Mr. Ovrut then reviewed the towns housing inventory from the DHCD (Department of Housing and Community Development). The town is currently at 12.8% for affordable units, the number is expected to decline slightly based on the 2020 census numbers. The actual number of affordable units is 6.74% due to method of calculation used by DHCD, condominium units are counted as the actual units, rentals allow for all units to be counted towards the overall total, even though they are not all affordable units.

Kathy Vandenoorn of 109 Morse Street had asked at the previous meeting when will these 40b projects be done for the town. Mr. Ovrut stated that a developer applies for a 40b project and the town renders a decision believed to be appropriate based on the circumstances and facts at that time. The decision is not based on what other towns have done in similar circumstances.

Mr. Ovrut stated that tonight the stormwater report and traffic report will be reviewed.

Engineer Bill Buckley of Bay Colony then began by explaining that what was required in the preliminary stormwater report and development plans that were submitted were based on state statute and town regulations. Most plans are preliminary in nature as required in 40B projects.

Mr. Buckley then reviewed the site plan, the site is six acres off of the northwest side of Morse Street at the Bleachery Pond. The proposed project will cover four acres. There are wetlands in the area, an ORAD has been received from the Conservation Commission which has been appealed by an abutter, the appeal has to do with the location of the riverfront.

The plan shows the 100 foot buffers as required in the state wetland regulations. The FEMA floodplain elevation is also noted on the plans at 181.4 elevation. The topography of the site is mostly flat starting at elevation 181 at the pond and approximately elevation 190 to the rear of the property. Soil evaluations were performed to the DEP stormwater standards, ten test pits were dug and Mr. Buckley reviewed the results of those tests. Most of the development will be 2.5 feet above ground water levels. The soils were discovered to be loamy/sandy classified as Class A.

Mr. Buckley then reviewed the preliminary utilities. Stormwater measures will include catch basins for subsurface drainage using a cultec system. The catch basins will drain to a water quality unit which helps to remove the total suspended solids (TSS) before the water is discharged to a drainage basin, this will result in 90% cleanliness of the water. Low Impact Development (LID) elements such as roof recharge units which drain to a separate drainage system will also be used; roof recharge is considered clean already so this flow will be directed to rain gardens. Any overflow of the river will affect the rain gardens. The stormwater systems have been designed for a 100 year storm.

The sewer in this area of Morse Street is directed to Mansfield via a pressure system, there will be a manhole in the driveway for access. Gravity sewer will be used, they are proposing to drill under the river like Willowdale Golf Course in Mansfield.

The water lines go to the site over town owned land, there is currently a 6" pipe, the water department has asked for it to be upgraded to an 8" pipe; they are also asking that the piping system be looped and then tied into the existing 8" line on Morse Street.

There are no natural gas lines in the area; the electric service will be overhead lines on Morse Street to underground lines on the site, the electric provider designs that system.

Mr. Brown asked about the maintenance of these stormwater systems, failure to maintain the systems may lead to clogs. Mr. Buckley explained that since most of the TSS are removed there would be no clogs. The catch basins should be inspected four times a year and cleaned as necessary, the rain gardens are inspected semi-annually; the water quality inlets require an annual inspection. An Operation and Maintenance Plan (O&M Plan) will be prepared. In regards to written records of the inspections, the future Home Owners Association (HOA) will have the O&M plan included as part of the HOA fees to cover the costs of these inspections and reports.

Ms. Mellen asked about any fill needed on the site. Mr. Buckley stated that there would be seven to eight feet of fill at the homes nearest to the pond to bring the basements up seven feet from pond level. The basements are designed to be above the 100 year storm elevation. Any fill in the flood plain areas require compensatory storage meaning if 500 sq. ft. is removed it needs to be added elsewhere on the site. Ms. Mellen also asked about the FEMA flood zone. Mr. Buckley stated that the site is in FEMA flood zone AE which does not require flood insurance.

Questions were asked about the current bridge to the site flooding. Mr. Buckley explained that the fire department regulations require a 20 foot wide bridge, the current bridge is sixteen feet wide so a new bridge will be designed for access to the site.

Dylan O'Donnell from Environmental Partners, the Board's reviewing engineer speaking via zoom, stated that the stormwater report submitted was a preliminary design so a full review could not be conducted, however, they did have enough information to provide comments, most of which are technical in nature. One of the items had to do with the space provided for the BMP's, the applicant should confirm that there is adequate space. An additional comment is that the sub-surface infiltration systems do not seem to include overflows. It was also noted that the Conservaiton Commission did not want to see the water line go through conservation land and would rather see it go through Morse Street.

Mr. O'Donnell will work with Mr. Buckley directly to address these as well as the rest of the concerns.

Drew Hoyt of 9 Ouimet Lane had comments about the stormwater presentation. The information about the test pits for groundwater elevations, he wanted to know if it was in the submission records. Mr. Buckley explained that this information is in the Preliminary Stormwater and Utility Report appendix. Mr. Hoyt would like a summary table showing the elevations and results. Mr. Buckley stated that it would be included in the response to the review comments. Mr. Hoyt would like to see a full stormwater design that can be reviewed by the town's engineer. Mr. O'Donnell stated that comprehensive permit applications only require preliminary stormwater plans in their applications. Mr. Hoyt stated that he is a land use attorney and other projects in other towns have been required to submit full stormwater designs after being asked to do so by the zoning board's in those towns. Mr. Ovrut stated that it could be a condition in a final decision. Mr. Hoyt's last point was in regards of the environmental reports as

he feels this is a contaminated site as there has been no remediation in the last 100 years; the town's peer review should review those reports to make sure the site is safe to build on.

Atty. Stephanie Keefer of North Andover, representing Mr. Saegh, stated that under 40b regulations, preliminary stormwater designs are submitted as the permitting process is to be streamlined; final plans are submitted after the project is approved. Aspects of the project may change during the course of the hearings and it is not a good use of the reviewers time to have to keep reviewing the changes. The project needs to meet state standards and will do so.

Kathy Vandenboom of 109 Morse Street, stated that her property flooded in 2010. She also questioned the capacity for sewer. Mr. Buckley stated that the DPW is considering a project that hasn't been built yet in Sharon in their calculations. Right now the town has capacity available, capacity issues could be dealt with by using holding tanks that would drain off gradually.

Jack Gillon then spoke regarding traffic and reviewed his report for the Board. He did note that cameras were used as part of the study. He also noted that the review engineer requested that Mr. Gillon use the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual and he will update his information to the 11<sup>th</sup> edition of the publication as part of his response to the review letter. Mr. Gillon will work with Environmental Partners directly on the technical questions in the review.

Ms. Mellen had questions on sidewalks, where is the closest sidewalk to the proposed site. The closest sidewalk is about a half a mile away nearest to the elementary school. If a sidewalk were to be required how much wider would the road need to be. Mr. Buckley stated that typical sidewalks are 5 feet plus one foot for curbing, eminent domain would be needed to widen the road.

Jane Davis of Environmental Partners summarized her review of the traffic report submitted. She questioned the direction that they presume traffic will travel and feels more will go towards the Mansfield end of Morse Street and asks that intersection be studied. She also feels that since the traffic counts were gathered in March of 2022 there is no need to add 17% due to Covid as the traffic is mostly at pre-pandemic levels. Ms. Davis also noted that no mitigation has been submitted in their report and asks that recommendations for mitigations due to the additional vehicles, bicycle and pedestrian traffic as well as school buses be provided.

Jessica Uth of 71 Morse Street stated that her fencing and power poles near her house have been hit by vehicles twice in the seven years that she has lived there. There are no sidewalks in the area which makes it already unsafe and adding more cars will make it even less safe.

Joan Gallivan via Zoom commented that the town has the right to reject the project or ask that it be reduced.

Kathy Vandenboom noted that Spring Street nearby has no sidewalks either and traffic will be going in that direction also.

Mr. Ovrut then asked for a listing of the waivers being asked for, they are asking for fourteen waivers, Mr. Casbarra read the list.

The next meeting it is anticipated that the architect will be present to discuss the details of the structures proposed to be built on the site.

Motion to continue the hearing for a Comprehensive Permit at 119 Morse Street to August 25, 2022 was made by Mr. Brown and seconded by Ms. Mellen. Roll call vote: David Brown - yes, Kim Mellen - yes, Barney Ovrut – yes, motion passed.

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,

Diana Gray

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Signed on behalf of the Board

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Kim Mellen, Clerk