

**Zoning Board of Appeals Minutes
September 13, 2017**

Attendees:

Present: Anthony Aveni, Chairman; Gerry Chipman, Member; Brian Heath, Member; and Michael Mainvielle, Member

0 Pleasant Street, Map 72, Parcel 106 – Variance, Section 6.30

A letter dated August 23, 2017 from Kevin M. Davis, Project Design Associate, ET Engineering Enterprise, Inc. was reviewed by the Board and read into the record. It stated the following:

“On behalf of the applicant and owner, Ms. Carolyn Reis, we take this opportunity to request the Board to continue the public hearing on the above referenced matter to a future date in order to allow for correction in the notice for the hearing. The public notice needs to be republished in the newspaper and the abutters would have to be re-notified. We thank the Board for its anticipated cooperation on this matter. Please do not hesitate to contact this office should the Board have any questions or require additional information.”

Mr. Brian Heath, Member, made a motion to accept the applicant's request to continue the hearing. Mr. Gerald Chipman, Member, seconded the motion. All in favor, none opposed. The hearing was continued to September 27, 2017 at 7:00pm on the second floor of the Municipal Office Building located at 66 Central Square, Bridgewater, MA.

Romney and Bedford Street – Variance, Section 8.60

Mr. Anthony Aveni opened the public hearing on application by filed by Mr. Stephen Prisco, 8 Romney Road, Bridgewater, MA 02324 who sought a 16' variance from the required 20' setback requirement under Sections 8.60 of the Bridgewater Zoning By-laws, who proposed to construct a 54' x 70' building 34' from the bordering vegetative wetlands. Said property is owned by Mr. Stephen Prisco and is located at Romney Road and Bedford Street, Bridgewater, MA as shown on Assessor's Map 88, Parcel 19 and 112. Area is zone Business B.

Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in *The Enterprise* on August 30, 2017 and September 6, 2017. Notice was also posted on the Town Hall bulletin board and a copy was given to the Town Clerk. Board members present and voting were Anthony Aveni, Chairman; Brian Heath, Member, Gerald Chipman. Mr. Michael Mainvielle, Associate Member was sitting, but not voting. Mr. Anthony Aveni, Chairman, opened the hearing with a reading of the public notice and the following information was given:

1. The application was filed with the Town Clerk on June 9, 2017.
2. The abutter's listing is public record, therefore, Brian Heath, Member, motioned to waive the reading of the abutters list and Gerald Chipman, Member, second the motion. The vote was unanimous.
3. A letter dated August 10, 2017 from Steven R. Solari, Building Commissioner/Zoning Enforcement Officer to Mr. Stephen Prisco was reviewed by the Board and read into the record. It stated the following:

“Based on the proposed site plan and location of the proposed building, you will need to apply for a Variance with the Zoning Board of Appeals. The proposed 54' x 70' building is only 34' from the bordering vegetated wetlands. The town bylaw requires 50' set back from bordering vegetated wetlands. 8.60 Land Space Requirements No building, except those specifically referred to in section 8.40, footnote (14), shall be located within fifty feet of bordering vegetative wetland, as defined by section 40 of Chapter 131, M.G.L.”

4. Mr. Stephen Prisco made a presentation to the Board reviewing the project in detail as depicted on the engineered plans presented dated July 24, 2017 entitled *“Proposed Addition, Site: Assessor’s map 88, Lot 19 and Lot 112, Romney Road and Bedford Street, Bridgewater, MA”* as prepared by Silva Engineering Associates, P.C., 1615 Bedford Street, Bridgewater, MA and presented to the Board for review. Mr. Prisco stated that he is proposing to move the existing business at the rear of the property to the front of his property on Bedford Street and construct a full service restaurant with seating for 80-90 people. There will be no gas or oil and everything will be contained within the inside of the building. Mr. Prisco stated that avoiding the wetlands and reducing the size of the building would be a safety issue and impact parking space; reducing the size would derogate from the size of the proposed restaurant, and not make it economically feasible. The creation of the proposed restaurant business will create 20-30 more jobs for the Town of Bridgewater. Mr. Stephen Prisco noted that he will be filing with the Conservation Commission and Planning Board for site.
5. Mr. Harry Bailey, Conservation Commission Member, noted that the applicant will be required to file with the Commission.
6. June and Dale Shoemaker, abutter residing at 145 Winter Street, expressed their concerns regarding the project and its impact to the wetlands. The Board advised the Shoemakers that the filing will need to be permitted through the Planning Board and Conservation Commission processes as well.

The Board reviewed and discussed all the facts as presented by the applicant and there were no further comments or concerns. The hearing was closed. Mr. Brian Heath, Member, made a motion to approve the variance of 16’ from the 50’ setback requirement under Section 8.60 of the Bridgewater Zoning By-laws. Brian Heath, Associate Member, seconded the motion. The vote was recorded as follows: Anthony Aveni, Chairman – in the affirmative; Brian Heath, Member – in the affirmative; Gerald Chipman, Member – in the affirmative. The reasons for granting the variance were: 1) The topography of the existing lot and the location of the wetlands create a hardship to the land, 2) The proposed addition would be in harmony with the general purposes and intent of the bylaw, and 3) The proposed use does not derogate from the intent of the by-law.

85 Rear Plymouth Street – Special Permit, Section 6.30

A letter dated August 23, 2017 from Kevin M. Davis, Project Design Associate, ET Engineering Enterprise, Inc. was reviewed by the Board and read into the record. It stated the following:

“This letter is to notify you and the board that I wish to withdraw my application without prejudice for a Special Permit on the property located at 85 Rear Plymouth St. The use of this unit was for a doggie daycare facility in the Residential D district under Section 6.30.E.8. Thank you for your attention to this matter. Sincerely, Lisa Crowley”

Mr. Brian Heath, Member, made a motion to accept the applicant’s request to withdraw without prejudice. Mr. Gerald Chipman, Member, seconded the motion. VOTE: All in favor, none opposed.

2 Lakeshore Center – Variance, Section 9.632.3

Mr. Anthony Aveni, on application by filed by Mr. Edmund J. Brennan, Jr., Esq., One Church Green, Taunton, MA 02780, who sought to construct a four story office building with a proposed roof height of 60 feet. A variance of 5' from the maximum height of 55' under Sections 9.632.3 (Planned Development District) of the Bridgewater Zoning By-laws was requested. Said property is owned by Claremont Lakeside Bridgewater, LLC, 1 Lakeshore Center, Bridgewater, MA and is located at 2 Lakeshore Center, Bridgewater, MA as shown on Assessor's Map 96, Parcel 16 and 22. Area is zone Planned Development District. Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in *The Enterprise* on August 30, 2017 and September 6, 2017. Notice was also posted on the Town Hall bulletin board and a copy was given to the Town Clerk. Board members present and voting were Anthony Aveni, Chairman; Brian Heath, Member, Gerald Chipman. Mr. Michael Mainvielle, Associate Member was sitting, but not voting. Mr. Anthony Aveni, Chairman, opened the hearing with a reading of the public notice and the following information was given:

1. The application was filed with the Town Clerk on August 21, 2017.
2. The abutter's listing is public record, therefore, Brian Heath, Member, motioned to waive the reading of the abutters list and Gerald Chipman, Member, second the motion. The vote was unanimous.
3. A letter dated August 11, 2017 from Steven R. Solari, Building Commissioner/Zoning Enforcement Officer to Mr. Brian Hughes, One Church Street, Taunton, MA was reviewed by the Board and read into the record. It stated the following:

"Based on the proposed site plan and building plan, you will need to apply for a Variance with the Zoning Board of Appeals. The proposed 4 story office building has a proposed height of 60 feet. The zoning bylaw allows up to 55 feet. 9.60 Planned Development District 9.632 (3.) requirements Maximum height shall not exceed for the following: Other buildings and structures not within 300 feet of route 104 (4) stories and 55 feet If you have any questions, please contact my office."

4. A memorandum dated September 7, 2017 from Andrew Delonno, Director of Community and Economic Development to Mr. Anthony Aveni, Chair of the Zoning Board of Appeals was reviewed by the Board and read into the record. It stated the following:

"Please consider this memorandum supporting the petition for a variance from the maximum building height to construct an office building in the Planned Development District. The petition for a variance from maximum building height conforms both to the Bridgewater Master Plan and general planning-zoning principles. Office buildings typically rely on maximizing floor area ratio (FAR). In other words, an office use is typically constructed tall and within a relatively small footprint usually not requiring much square footage at ground level. In the case of Lakeshore Center, a similarly sized office building already exists alongside a relatively squatter hotel also at four stories. Therefore, the proposed building is in keeping with similar uses as well as complementing the existing uses. The maximum height allowable for an office building in the PD zoning district is 55 feet and the petitioner request is for 60 feet. This is a minimal variance from the height requirement to allow for a usable office building. An office building of this height and scale is well within keeping to the normal parameters of a corporate office park. Indeed, a relatively shorter three-story office building already exists on an adjacent lot. The Town of Bridgewater Master Plan specifically describes this use in the goals and principles of the PDD, "Encourage high quality and value [SIC] commercial office uses that provide long term and well paying job opportunities ... and enhance the Bridgewater community tax base... (§ 9-8). The Master Plan further identifies in its action plan (§10-1) Strategy 6: Revise land use controls and policies to effectuate the type and location of economic development desired by the community and supportable by the local market. "Short term relief such as special permits and variances for desired projects... can serve as significant incentive for [development]..."

5. A memorandum dated September 12, 2017 from Patrick Driscoll, Chairman, Planning Board to Mr. Anthony Aveni, Chair of the Zoning Board of Appeals was reviewed by the Board and read into the record. It stated the following:

"Please be advised that the Planning Board opened a public hearing on application by Claremont Lakeside Bridgewater, LLC for a special permit under Sections 9.6-Planned Development district and 9.8 site plan approval for the proposed 4 story office building on Lot 3 located at Lakeshore Center on September 6, 2017 and has continued it to our September 20th meeting. A presentation was made by Mark Beaudry, PE from Meridian Associates. The proposed building will exceed the 55 foot limit in this PDD by five feet; the Board feels that it will be in keeping with the existing office building and will be an asset to our community and would strongly support the request for a height variance."

6. Mr. Edmund J. Brennan, Jr. Esq, representing the applicant, made a presentation to the Board reviewing the project in detail as depicted on the engineered plans presented dated July 26, 2017 entitled "Site Development Plans, 2 Lakeshore Center Office Building, Lot 3 — Lakeside Center, Bridgewater, Massachusetts, Sheets 1-4 entitled, "Cover Sheet/Locus Map", 'Record Conditions Plan', 'Layout & Materials Plan, 'Grading, Drainage and Utilities Plan', 'Planting Plan', Sheets C5-6, entitled 'Construction Details' " as prepared by Meridian Associates, Civil Engineering, Surveying and Landscape Architecture, 69 Milk Street, Suite 302, Westborough MA and Architecture Elevation drawings by Planners Designers Architects, Inc., 16 Huron Drive, Natick MA presented to the Board for review. Mr. Brennan stated the Applicant is requesting a variance to allow the construction of a 65,000 square foot, four-story office building on 5.1 acres of land at Lakeshore Center, Bridgewater, MA. The lot is currently vacant and is situated behind the existing office building and parking lot at 1 Lakeshore Center. It is the Applicant's intention to build a new office building with a roof height of 60 feet, which exceeds the Bridgewater Zoning By-laws by five feet. A set of elevation drawings and a site plan have been provided showing the dimensions of the proposed building and lot. As can be seen from the site plan, the parcel in question meets all dimensional requirements of the Zoning Bylaws. It has 5.1 acres of area including 3.8 acres of uplands. There is 317.18 feet of frontage on the proposed extension of Lakeshore Center. All setback requirements are met. The Applicant requests a variance from Section 9.362(3) of the Zoning By-laws, which restrict building heights in the Planned Development District to 55 feet. Approval of this variance is warranted under the Bridgewater Zoning By-laws and M.G.L. c. 40A § 10, as soil conditions and topography of the lot, and resulting wetlands, place limits on the length and width of the building. As proposed the building will have a fourth story in order to accommodate the square footage needed to make development of the lot commercially viable and to reduce the foot print to ensure adequate parking. Granting the variance will not pose a detriment to the public good, nor would it derogate from the intent of the By-laws. The proposed building is over 600 feet from the nearest public street (Pleasant Street), is farther away from the nearest residences and, as proposed, is consistent with the intent of the Bridgewater Zoning By-laws as it relates to a Planned Development District. The building will be set directly behind the current office building located at 1 Lakeshore Center, and, with appropriate landscaping, will present the image of a first class commercial development. The new office building will be a benefit to the Planned Development District itself, and to the Town of Bridgewater as a whole. There is no detriment to the public good nor derogation from the intent of the By-laws. The variance is appropriate given the extent of the wetlands on the site. Mr. Brennan stated that for these reasons the applicant respectfully requests that this Board grant the height variance of five feet.
7. Bernice Morrissey, abutter residing at 150 Lakeside Drive, expressed her concerns regarding the ACEC area and the changing horizon and environment around Lake Nippenicket.
8. Nancy Chiappini, abutter residing at 8 Birch Hill Rd, expressed her concerns regarding the changing skyline with all the lights, traffic and safety.
9. Mr. Steve Solari, Building Inspector, stated that the office building will be required to meet all safety codes, meets all zoning requirements with the exception of the height.

The Board reviewed and discussed all the facts as presented by the applicant and there were no further comments or concerns. The hearing was closed. Mr. Gerald Chipman, Member, made a motion to approve the variance of 5' from the required 55' maximum height requirement under Section 9.632.3 of the Bridgewater Zoning By-laws. Mr. Brian Heath, Associate Member, seconded the motion. The vote was recorded as follows: Anthony Aveni, Chairman — in the affirmative; Brian Heath, Member — in the affirmative; and Gerald Chipman, Member — in the affirmative. The reasons for granting the variance were: 1) The location of the wetlands creates a hardship to the land. Allowing the height differential reduces the imperious surface and is in the public good, 2) The proposed use would be in harmony with the general purposes and intent of the bylaw and will be in harmony with the neighborhood, and 3) The proposed use does not derogate from the intent of the by-law.

Pleasant Street – Viva 40B

Mr. Anthony Aveni, Chairman, opened the public hearing to review an application filed by Claremont Lakeside Bridgewater, LLC, One Lakeshore Center, Bridgewater, MA 02324 for a proposed 40B Comprehensive Permit filed under MGL Chapter 40B § 20-23 known as Viva Bridgewater for property located at Lakeshore Center, Route 104, as identified on Assessor's Map 96, Lot 17 and portions of 16, 18 and 19. The applicant proposes to construct two five-story apartment buildings with associated amenities on approximately 25.9 acres. The area is zoned Planned Development District. Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in *The Enterprise* on August 30, 2017 and September 6, 2017. Notice was also posted on the Town Hall bulletin board and a copy was given to the Town Clerk. Board members present and voting were Anthony Aveni, Chairman; Brian Heath, Member, Gerald Chipman. Mr. Michael Mainvielle, Member, was sitting, but not voting. Mr. Anthony Aveni, Chairman, opened the hearing with a reading of the public notice. The application was filed with the Town Clerk on July 25, 2017. The abutter's listing is public record, therefore, Brian Heath, Member, motioned to waive the reading of the abutters list and Gerald Chipman, Member, second the motion. The vote was unanimous.

Attorney Peter Freeman, representing the applicant, Claremont Lakeside Bridgewater, LLC was present along with Patrick Carney, Sr., Patrick Carney, Jr. and Elias Patoucheas as well as Nick Griffin from Cube 3 Studio LLC, Architects, and Gary McNaughton from McManus Associates. Attorney Freeman stated that the site was 25.9 acres and they proposed the construction of two buildings consisting of 300 rental apartment units with twenty-five percent affordable units. The applicant is in control of the land, and is an established LLC. The applicant intends to enter into a regulatory agreement with the subsidizing agency, Mass Housing Partnership.

Mr. Ed Carney made a presentation to the Board, and stated the following: *"Ed Carney, Chairman and CEO of Claremont Companies, and we are in our fiftieth year as a real estate developer, owner and manager. Our company headquarters has been in Bridgewater for the last 17 years. We purchased 170 acres on 104, across from the lake, about 19 years ago. We are very happy that we have been able to complete three developments that have added \$750,000 a year to the tax base of Bridgewater. As we all know, Bridgewater has a very heavy residential tax base, and a very small commercial tax base. One of the reasons the Town zoned this land Planned Development District (PDD) was to help increase the tax base of the town; which by the way keeps the taxes down for the homeowners. Our \$750,000 in taxes lowers the tax bill of all the houses. These two developments will pay another six or seven hundred thousand dollars in taxes. So as part of the PDD, there are approximately 1.4 million in annually taxes and room taxes from the hotel for the Town of Bridgewater. We are also very happy that our company was able to open the first hotel in Bridgewater in the last 350 years, which has become a great asset to the town, the university, and to the travelers and Bridgewater families that have people visit them. And we are very pleased to be a good neighbor to the town and would like to continue to do so. I want to point out one very important fact; you won't see this property from anywhere but 495. This site is all the way behind our existing Claremont headquarters at the very end of the site, about 1500' back from Route 104. So you will never see this from 104, you will only see it from 495; when you go on the ramp from 24 to 495 – it will be partially visible but somewhat blocked from the woods. I think everybody knows what 40B is. 40B is a law from the Commonwealth of Massachusetts that requires every city and town in Massachusetts to have ten percent of their housing stock available for affordable housing. That is not low income group. Affordable housing is work force housing for people making \$50-70K annually that cannot afford a \$2,000 a month apartment; they would get lowered rent under this program. With the construction of these 300 units, Bridgewater will have completed its ten percent requirements, so no other application 40B will have to be approved in the Town of Bridgewater once this is approved and built. As everyone knows that if a city or town declines a 40B application and the town hasn't met the ten percent requirement, the applicant is allowed to appeal to the state and the precedent has been that the state will approve it, if the town denies it and they haven't met their 40B requirement. So I want to thank the board for taking the time to hear our presentation. We want to continue to be a good resident and tax payer for the Town of Bridgewater. Thank you."*

Mr. Nick Griffin, Architect from Cube 3 Studio LLC, representing the applicant, gave an overview of the architectural conceptual elevation plans and the typical floor plan dated May 18, 2017 for the proposed development. Mr. Griffin discussed the various aspects of the buildings, noting the surround areas, open space and the landscape plan. Mr. Griffin noted that the site will also have covered garages that will be provided for rental to individual units. In addition, Mr. Griffin also explained that the main access to the development will be off of Lakeside Drive and showed a rendering depicting the overall look of the proposed parking lot area.

Mr. Anthony Aveni, Chairman, asked if there would be any associated retail to support this project. Mr. Carney stated that once the office building and the Viva 40B project are in place, they will take a look at the possibility of retail shops.

Ms. Nancy Chiappini, 8 Birch Hill Road asked where the town was on reaching the 10% affordable housing quotient. Mr. Ed Marchant gave an explanation on how the current percentage of affordable housing inventory is based on the 2010 census, and that number currently stands at 6.9%. Mr. Marchant stated that all rental units will count towards the housing inventory, and put Bridgewater at 10%. This number will be reassessed based on the 2020 census date. Mr. Marchant also explained the purpose of a housing production plan. An approved housing production plan provides an incentive to towns, which would all a town to deny a 40B application without a right to appeal, if the town were at 10%. Mr. Marchant stated that the applicant has received a project eligibility letter in favor of the development of the project. The only reason Mass Housing would deny a project is if there were safety issues.

Ms. Bernice Morrissey, 150 Lakeside Drive, expressed her concerns regarding the infrastructure, the density and the traffic, as well as the impact of the project to the ACEC, wetlands and Lake Nippinnicket. Ms. Morrissey also asked what will be done to minimize the existing steady flow of the police traffic into the development.

Mr. Ed Carney noted that Claremont spent \$2 million dollars to bring in three miles of sewer and water lines, and if anybody is welcome to tie into those lines at their expense.

Mr. Brian Heath, Zoning Board of Appeals Member, stated that the Board may have no right to shoot down this 40B project, but we will work together to negotiate the project so that it can be the best for the Town.

Ms. Pat Neary, 225 Lakeside Drive, stated that the purpose of the planned development district was to allow the Town to regulate development of the planned industrial parks and designated suitable areas so as to achieve significant revenue or employee benefits without adverse impacts on the neighborhoods or the town's natural resources. Ms. Neary stated that this shows that it will have an affect our town's resources. Ms. Neary expressed her concerns regarding the water usage and traffic impacts. Mr. Aveni stated that 40Bs pre-empt the zoning laws.

A notice of project change and a new environmental impact report will be sent to the State office. Mr. Marchant clarified that 40B projects have the right to ask for exceptions to all local groups (i.e., bylaws, rules and regulations), with the exception of building codes, state laws, title V sites and wetland protection act. – developers must comply with those state requirements.

Mr. Gary McNaughton with McManus Associates discussed in detail the results of the traffic study – a combined study that looked at the apartments, the office building and the cumulative impact of both projects. Mr. McNaughton stated that the data was reviewed during busier times, while school and college were in session; there was an increase of 5% over the last five years, noting that it is due to the growth associated with the Residence at Lakeshore, and the apartments in Raynham. Mr. McNaughton stated that the signalized intersection have been working well, however, with the increase with this project, it will make sense to review the functionalities and times and perhaps submit a notice of project change to mass DOT to request the appropriate modification of the timing of the intersection, or look at other options that could mitigate the impact from the project. Mr. McNaughton also suggested that a left hand turn lane into the development may also help to mitigate the traffic flow.

Mr. Ed Marchant reviewed the deadlines associated with a 40B filing. The Board is required to open the public hearing within 30 days of receipt of the filing. The public hearing must be closed in 180 days from the opening of the hearing – which is 6 months. If there is a reasonable request for information and it takes the developer longer to get the information to the Board, the applicant will agree to extend the time in writing. All materials must be submitted to the record prior to the closing of the hearing and the Board has to issue a decision within 40 days of closing the hearing.

After some discussion with the Board and the applicant in regards to the selection of the peer review firm, Claremont agreed to use the services of Nitsch Engineering. Mr. Gerry Chipman made a motion to allow the Chairman to review the proposals from the engineers and consultants and act on the behalf of the Board to expedite the project.

There was no further comments from the public.

Mr. Gerald Chipman, Member, made a motion to continue the hearing to October 25, 2017. Mr. Brian Heath, Member, seconded the motion. VOTE: All in favor, none opposed.

Zoning Board of Appeals Business

There was no board business for discussion.

Mr. Anthony Aveni, Member, made a motion to adjourn the regular meeting at 9:30pm. Mr. Brian Heath, Member, seconded the motion. VOTE: All in favor, none opposed. Chairman Andre Bissonnette closed the meeting. Next Zoning Board of Appeals meeting will be held on September 27, 2017 at 7:00pm in the Council Chambers located on the second floor of the Municipal Office Building, 66 Central Square, Bridgewater.

Respectfully submitted,

Jane K. Brown
Administrative Clerk