

***Zoning Board of Appeals Minutes
October 10, 2018***

Attendees:

Present: Anthony Aveni, Chairman; Gerry Chipman, Member; and Brian Heath, Member
and Anna Klimas, Associate Member

Absent: Michael Mainvielle, Member

Staff Present: Stephen Solari, Building Inspector/Zoning Enforcement Officer
Jennifer Burke, Director of Community and Economic Development

Scotland Meadows v. Bridgewater Zoning Board of Appeals Appeal

Mr. Jason Rawlins, Town Counsel, presented the Board with the final Endorsed Disposition Agreement as discussed in Executive Session for their signature and approval.

Mr. Rawlins summarized the disposition agreement, stating, "In a nut shell, it creates very specific time lines and standards by which the construction has to occur under the comprehensive permit, and if those things do not occur, it will be deemed lapse, and then will be have less of an issue in front of the housing appeals committee relative to the interpretation of lapse. Unfortunately, in the 40B context, there is not a clear interpretation of what a lapse in a comprehensive permit is, like there is in the context of a variance, where specific case law can be referenced. As other developments have come on board, other 40B projects that have been paying in mitigation funds did not do that, but through this endorsement, those mitigation funds are at a higher per household rate, compared to some of the other larger 40B projects. Contextually, you had voted this project in, so obviously, there was some desire to have this project at its inception. The big issue has been the delays. So hopefully with this endorse disposition agreement, that will become an order of the housing appeals committee, there will be a strict time line of the construction; including some caveats relative to the construction that would not normally apply. Once a bond was released on the roadway of the development. So, there are other safeguards written into the agreement that is above and beyond. Kudos to the developer to be willing to work with the town in that fashion."

Mr. Brian Heath, Member, made a motion to accept and sign the Endorsed Disposition Agreement, as presented. Mr. Gerald Chipman, Member seconded the motion. VOTE: All in favor, none opposed.

72 Main Street –Variance

Mr. Anthony Aveni opened the public hearing on application by filed Robert Pellegrini, Jr. 63 Main Street, Suite 1, Bridgewater, MA 02324. Applicant sought approval for a variance under Section 7.64 of the Bridgewater Zoning Bylaws to allow an internally illuminated sign within the Central Business District. Said property is owned by Mechanics Cooperative Bank and is located at 72 Main Street, Bridgewater, MA as shown on Assessor's Map 21, Parcel 29. Area is zoned Residential CBD. Notice of the hearing was mailed to all abutters and parties of interest as required by statute and was published in The Enterprise on September 26, 2018 and October 3, 2018. 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, and Gerald Chipman. Ms. Anna Klimas, Associate Member, was present but not voting, and Mr. Michael Mainvielle, Member was absent.

The following information was given: The application was filed with the Town Clerk on August 28, 2018. 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.

A letter dated June 27, 2018 from Mr. Steven Solari, Inspector of Buildings/Zoning Enforcement Officer to Mr. Brian Chipman, Metro Sign and Awning, 170 Lorum Street, Tewksbury, MA 01440 was reviewed by the Board. It stated the following: "It has come to my attention that a sign permit issued in error to Metro Sign and Awning, for Mechanics

Cooperative Bank located at 72 Main Street does not meet the Town of Bridgewater's Zoning Bylaws. 72 Main Street is located within the Town's Central Business District. Per section 7.64 of the Town's Zoning By-laws: Internally illuminated signs are not permitted in the Central Business District. I apologize for the inconvenience and will refund the permit fee. The illuminated sign cannot be used in the Central Business District. Applicable section of Zoning Bylaws: Signs 7.64. If you have any questions, please contact my office."

Attorney Robert Pellegrini, Jr., representative for Mechanics Cooperative Bank, made a presentation to the Board explaining that a building permit was issued for a sign that was installed in April and May. Mechanics Cooperative Bank spent \$37,275.63 for the manufacture and installation of the sign. On July 2, 2018, the bank received a letter from the building inspector stating that he had issued the permit in error. Mr. Pellegrini requested that the Board consider granting a variance under section 7.64 of the zoning bylaws. The applicant is willing to limit the hours when the sign is illuminated. Mr. Pellegrini stated that the existing sign is tastefully done and is consistent with several other businesses in Town and that allowing them to leave the existing sign, with restricted illumination times, would not be a detriment to the public good and would not substantially derogate from the intent and purpose of the bylaw. A color schematic of the existing sign was provided for the Board's review.

Mr. Gerald Chipman, Member, stated that he realized that mistakes happen, and recognizing that it was in the historic district, asked Steve Solari, Building Inspector, if he had an issue with the sign being in the historic district. Mr. Solari stated considering that it would be the first digital sign in the historic district, it may pose an issue for future signs.

Attorney Pellegrini stated "I reviewed case law, all of which say the decision of the local Board has no substantive evidentiary value other than to indicate the result reached with that particular case. A court would unequivocally look at the particular case, so this will in no way set precedent whereby somebody else will be able to get a variance. This is a unique situation and the Board can give great weight to it." Mr. Pellegrini also noted that the Zoning Act itself that states any review by the Board is a de novo review.

No abutters were present to speak in opposition. The Board reviewed and discussed all the facts as presented and there were no further questions or concern. The hearing was closed. Mr. Gerald Chipman, Member, made a motion to approve a variance 7.64 under Section 8.40 of the Bridgewater Zoning By-laws. Mr. Brian Heath, 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 Variance is granted for the following reasons: 1) The sign may be kept in operation and shall be limited to the operation between 7am and 7pm, and to follow the Town of Bridgewater bylaws for illuminated signs, 2) The proposed use would be in harmony and does not derogate with the general purposes and intent of the bylaw, and 3) Relief does not result in a substantial derogation of the intent and purpose of the bylaw.

Burrill Place Apartments 40B

Mr. Anthony Aveni, Chairman, Chairman, opened the continued public hearing from September 26, 2018. Present: Mr. Anthony Aveni, Chairman; Mr. The Board, along with Ed Marchant, 40B Technical Consultant; and Geoff Engler representing Scollay Development.

A letter dated October 10, 2018 from Azu Etoniru, Conservation Agent to the Zoning Board of Appeals. Mr. Engler stated that he was opposed to holding the public hearing awaiting Conservation Commission approval. Mr. Aveni noted that any Conservation Commission issues will need to be addressed and resolved, and if anything goes sideways and requires a modification, will be at the risk of the applicant. Mr. Engler stated he was willing to take that risk.

The finalized draft decision letter was reviewed and discussed in detail, as presented.

The Board reviewed and discussed all the facts as presented and there were no further questions or concern. The hearing was closed. Mr. Brian Heath, Member, made a motion to approve and sign the Comprehensive Permit 40B decision letter, as discussed and presented. Mr. Gerald Chipman, Member, seconded the motion. VOTE: All in favor, none opposed

Curve Street, Duxburrow 40B

Mr. Anthony Aveni, Chairman, Chairman, opened the continued public hearing form September 12, 2018.

The Board, along with Ed Marchant, 40B Technical Consultant; Mark Bartlett, PE, Peer Reviewer from Stantec Consulting Services, Inc; Lawrence Silva, PE, from Silva Engineering; the applicants from Stonebridge Homes Rami Itani and Muhammad Itani, reviewed discussed in detail a draft decision.

The Board, along with Ed Marchant, 40B Technical Consultant; Mark Bartlett, PE, Peer Reviewer from Stantec Consulting Services, Inc; Lawrence Silva, PE, from Silva Engineering; the applicants from Stonebridge Homes Rami Itani and Muhammad Itani, reviewed discussed in detail the water and sewer agreement. Mr. Anthony Aveni read it into the record. It stated the following: *"The proposed new low pressure and forced main sewer lines will be installed off the pavement on the northerly edge of Auburn Street. Stubs for future tie ins to properties north of Auburn Street will be extended to the property line of each lot. The future connection location for properties on the south side of Auburn Street will be limited to a short connection/stub at the low-pressure line. Exact locations will be recorded for ease of connection in the future. All properties along the westerly leg of curve Street will be supplied with a stub for future connection to the low-pressure sewer main. Stubs for future tie-ins are provided as a courtesy for residents wishing to tie-in at a future date. To satisfy the requirement for looping of the water main, the existing water main in Auburn Street will be tapped twice. One tap will replace the existing 6"AC water main (abandoned in place) with a new 8" line to Jennings Hill Way and the other tap will extend to the entrance of Duxburrow Estates, and the existing 8" line located along the central leg of Curve Street. All properties currently tied to the 6" line will be redirected to the new 8" lines. See approved plans as agreed to by Water and Sewer Commissioners on July 25, 2018. Water line from Auburn St. into the subdivision will be installed along the west side of Curve St. and will loop back as per the plan approved at the W/S meeting of July 25, 2018. A potential alternative looping configuration along the eastern leg of Curve St. may be substituted for the looping described above, subject to agreement between the Town Manager and the developer. In an effort to provide mitigation, use of which will be determined by the Town Manager, the developer will provide an amount equal to the water and sewer tie in fees for the affordable units, to the town, in exchange for forgiveness of said fees. The distribution of fees will be as follows: \$125,000 to be provided after final approval of the project by the ZBA. \$60,000 to be provided after receipt of 10th certificate of occupancy. Final balance to be provided after sale of the final affordable unit."*

The applicant requested that the hearing be continued finalize the decision letter. Mr. Gerald Chipman, Member, made a motion to accept the applicant's request and to continue the hearing to October 10, 2018 at 7:00pm on the second floor of the Municipal Office Building located at 66 Central Square, Bridgewater, MA. 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. Gerald Chipman, Member, made a motion to adjourn the regular meeting. Mr. Brian Heath, Member, seconded the motion. VOTE: All in favor, none opposed. Chairman Anthony Aveni, Chairman, closed the meeting. Next Zoning Board of Appeals meeting will be held on October 24, 2018 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 Assistant