

**Zoning Board of Appeals Minutes
September 12, 2018**

Attendees:

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

Absent: Anna Klimas, Associate Member

Staff Present: None

81 Grove Street – Use Variance 6.30.4

Mr. Anthony Aveni, Chairman, opened the continued public hearing reviewed and read into the record a letter dated September 10, 2018 from Carlton D. Hunt, Ph.D., 80 Austin Street, Bridgewater to the Bridgewater Zoning Board of Appeals, and read it into the record, it stated the following: *"In a May 4, 2018 letter to the ZBA, Mr. Troy Clarkson representing West Point Realty, LLC appealed a February 9, 2018 variance request denied by Bridgewater's Building inspector. The requested use variance for Map 34, Parcel 165 was for construction of a 36-unit townhouse development on the property zoned as Residential D. Residential D zoning does not allow multi-family uses per Section 6.30 of the Bridgewater Table of Uses. The property abuts Bridgewater State University, private single-family homes, and a privately-owned funeral home. Mr. Clarkson's appeal lists three factors and arguments to support the use variance: 1) hardship to the land, 2) no substantial detriment to the public good, and 3) no substantial degradation from the intent and purpose of the current zoning. The arguments posed in the appeal letter are unsupportable for the following reasons. 1. Hardship factors. The appeal argues that the hardship is a "community hardship" suggesting the Town has set limits on its Central business District (CBD) boundaries, hence limiting this parcel's ability to "enjoy the benefit of the density and zoning of the CBD". The letter further indicates the University has few options for housing graduate students and new faculty stating: "The University supports this proposal to provide that option." Hardship variances are not predicated on perceived negative impacts to the Town if not allowed. Hardship variances are clearly hardships to the land owner/developer. Therefore, the argument misrepresents the hardship as a positive to the town without recognizing the development can, in fact, negatively impact the Town as revenues from the development would only support 80-90 percent of the Town's cost to provide services (e.g., education, fire, public safety, etc.). This estimate is supported by numerous studies focused on a Town's ability to provide full services when the main source of revenue is residential property taxes. Hence, the argument made in the appeal is misguided and, as presented, unsupportable. Further, direct communications with the University by me indicates they have not and will not take a position for or against such developments. Therefore, the suggestion that BSU supports the project is incorrect. 2. Without substantial detriment As above, the argument that development of the parcel as described in the appeal would provide substantial revenue to the Town, while true from a pure revenue perspective, is not a positive from an expense perspective. Housing generally does not pay the full cost of town services but adds a burden to a town's citizens via properly maintained public safety, i.e., roadway maintenance, police, and fire, and school systems. The appeal also argues that "The addition of these townhouses will provide citizens with sustainable incomes to support the business that will be coming to Broad Street." That statement has no meaning as it suggests townhouse would provide individuals sustainable incomes. How will townhouses provide individuals with sustainable incomes? Only temporary construction jobs can be envisioned here. Thus, how will the project will have "enduring benefits for the town."? 3. No degradation of intent and purpose The arguments provided in the appeal while having some validity, do not address the larger question of this variance: if approved, does it set a precedence or become spot zoning? Such a precedence will create a hardship on the Town because it will open the doors for other owners and developers to make similar hardship arguments. The town should avoid setting such precedents. Approving the variance request will put the Town in an untenable position regarding future multitenant housing. The appeal letter also suggests proximity to the CBD and downtown redevelopment goals are appropriate reasons to approve the requested variance. That argument is weak, essentially asking the ZBA to modify the boundaries of the CBD through a use variance. That is not a proper method to address downtown redevelopment goals. Why was this parcel not included in existing downtown redevelopment studies? The Town is currently considering development of a comprehensive land use plan. The appropriate way to address the requested variance is to deny it, undertake the appropriate studies with public input and revise our Master Plan and zoning. Summary: The appeal does not support hardship to the developer, provides inadequate rationale and reasons for a use variance, and in a least one instance, misrepresents information to support the proponent's argument for the use variance."*

Mr. Anthony Aveni, Chairman, also reviewed and read into the record the email dated September 10, 2018 from Troy Clarkson, Clarkson Consulting, LLC, representing the applicant, to the Zoning Board of Appeals and read it into the record, it stated the following: *"On behalf of West Point Realty Development, Clarkson Consulting LLC continues to work closely with the Town Manager and Director of Community and Economic Development on alternatives for the above referenced property. We have made substantial progress but are still working on some important details. As a result, we request an additional extension for this continued hearing until after some time in early 2019. Thank you for your continued patience and support."*

Mr. Anthony Aveni, Chairman, opened the hearing to public comments. Mr. Carlton Hunt, citizen residing at 80 Austin Street, stated, *"I would not like to see you continue the hearing and the reason why is because I was here in July and a lot of these people were here in July and they didn't show up. They are working with the Community and Economic director and the town manager, that's great. But why aren't they bringing those things to you so that your body can speak at the same time. I have a great major objection. Six months ago, the data should have been provided in detail. This is the second time that people have shown up and I respectfully request that you close the hearing and deny the continuance."*

Ms. Shannon Schofield, abutter residing at 109 Maple Avenue, stated *"I concur that this should be denied, and the continuance be denied. Ms. Schofield stated that the zoning regulations were put in place for a reason, and that (project) does not belong on Grove Street, and noted various considerations, notably, the wetlands impact of the project, the water, sewer, fire and police impacts, not to mention the precedence."*

Ms. Ann Wood, citizen residing at 60 Forest Street, stated, *"I own a home across the street, and grew up in the neighborhood, and have seen changes, and we all have to endure changes; but I am wondering, perhaps you can or cannot answer to this, but are the Zoning Board of Appeals making changes in the zoning bylaws that could impact and let this gentleman have his way on this property. The property and police had a very lively time for three apartments on this property." Ms. Wood noted that there will be increased traffic, and accidents and this location was not built for this proposed project, but perhaps a new building on it." Ms. Wood also stated, "The College has empty dorm rooms and can't even fill their dorm rooms." Ms. Wood asked how many continuances can be granted. Mr. Anthony Aveni, Chairman, stated that it is the Board's practice that if an applicant requests a continuance, that it be granted. Mr. Anthony Aveni, Chairman, noted that the Board hasn't decided on anything, or approving anything just because it is allowing a continuance.*

Mr. Mark Chapman, owner of Prophet Funeral Home, stated, *"The continuance should be stopped here, and should have to re-apply." Mr. Chapman noted that the Board would be setting a precedent noting, "I tried to build a parking lot and asked to put a one-bedroom apartment above a two-car garage and was denied, and now you have somebody who's trying to do a much bigger project. That's beside the point. You are definitely setting a precedent. In that neighborhood, there are a lot of college people who own houses that rent them out. Some are good size properties, and one abuts me. There is one down on Springfield and Maple Avenue, and that is a big piece of land. I have no problem with development, but they should have to go through the right avenues as opposed to getting a freebee from you guys. You are setting precedent, but I just find it odd that a couple years ago, I tried to put a one-bedroom apartment above a garage, you denied that because it didn't fit into the context of that neighborhood – which is documented some place." Mr. Chapman stated that he didn't have a problem as an abutter but felt it could be scaled back. Mr. Chapman stated, "I'm curious how many new units would be in town, if it were added to the project where Friendly's is." Mr. Anthony Aveni, Chairman, stated that it would be a substantial amount.*

Mr. Donald Gresh, abutter residing at 20 Bedford Street, stated *"I have lived in Bridgewater for 46 years, 46 years ago I was proud of this town. But since he has lived here, it seems like this one gentleman is trying to buy the Town out. Every property that I know of, in town here, has become a slum zone. Including in town where the houses burnt down, the Friendly's, the bowling alley, Grove Street, and Bedford Street, that apartment complex is a dump, and it seems like he just keeps buying and buying, except for the house next door, the property's gone down, and my property valued has gone down because of that house. And I would like consideration taken what this gentleman has done, he may have done good work building houses out in the suburbs somewhere, but in Town, it's a slum. If people came in here to buy property and they went through Bridgewater, they are just going to keep on going until they found a place."*

Mr. Paul Malone, abutter residing at 21 Maple Avenue concurred with what had been said, suggesting that the applicant re-apply if they want to do this again, but said the project doesn't belong in the neighborhood. Mr. Malone also asked about the status of the idea of trying to change the zoning for this general area, is that something that the zoning board is trying to do, I know there has been some talk about that to make this a mixed-use area, extend back to Grove Street. Mr. Anthony Aveni, Chairman, stated that he didn't believe it would extend beyond Grove Street, and asked Mr. Carlton Hunt, Chairman of the Master Plan Committee, for clarification. Mr. Carlton Hunt deferred to Mr. Peter Colombotos, Town Councilor. Mr. Colombotos stated that the Town Council just approved it last night [September 11, 2018] and the charter requires a thirty-day waiting period before it goes into effect. Mr. Colombotos then asked, "are you talking about the overall? That is months away."

Mr. Carlton Hunt stated that he is present as a citizen; but since the Board asked the question, he said he is the Chair of the Master Plan Committee. Mr. Hunt stated *"As I understand it right now, they have hired an individual that will be helping re-do the zoning, not soup-to-nuts review, re-do, may look at group districts, and may do all sorts of things. In the same parallel process, they will be re-writing the master plan from soup-to-nuts. So that process is a double set of steps that are to be taken. There have been meetings being held, and being scheduled, and has no idea what the project schedule looks like, I am trying to get that now."* Mr. Hunt stated that it is in progress and it will take a several months.

Mr. Carlton Hunt, citizen residing at 80 Austin Street, stated that he is putting his citizen cap back on and noted, *"Yes, precedence has been you doing continuations. This particular developer has continually used continuances, whether it is in the Central Business District or in other places, to try to get a political solution, rather than the zoning solution, in my opinion. So, I think you need to take that into consideration. I appreciate precedence, but I do think you need to, personally I think you should caveat it with this is the last one, but you need to come in with plans. Or you will be here for months with this client."* Mr. Anthony Aveni, Chairman, stated that he agreed and thanked Mr. Hunt.

Mr. Gerald Chipman, Member of the Zoning Board of Appeals, suggested that due to past practice the continuance be granted, but have it conditioned with the requirement that that applicant show up to the next hearing, in fairness to the residents and others who have been consistently coming, and others to continuance with an email, we should give them an opportunity as well as. Mr. Brian Heath, Member, agreed and added that it has been a long-standing practice of the Board to grant continuances; however, without a substantial presentation at the next hearing, he would not support an additional continuance again.

Mr. Lawrence Silva, Silva Engineering, 1615 Bedford Street, Bridgewater, suggested that the continuance be conditioned by the applicant be required to re-notify the abutters. Mr. Paul Malone, abutter residing at 21 Maple Avenue stated that he agreed and suggested that the applicant be required to re-notify all the abutters.

Mr. Anthony Aveni, Chairman, noted that there wasn't a lot of support from the Board at the initial meeting, but typically the Board will allow an applicant to request a continuance unless they withdraw it. Mr. Anthony Aveni, Chairman, reiterated that no decision had been made, nor has the Board seen any revised plans, and the Board has been getting requests, without them attending, to continue. Mr. Anthony Aveni, Chairman, also suggested that the abutters contact their Town Councilor for the District and asked him to provide a letter to the Zoning Board of Appeals on his position.

Mr. Gerald Chipman, Member, made a motion to accept the applicant's request and continued the hearing to 7pm on February 13, 2019 with the following conditions: the applicant must re-notify all abutters, and must be present to make a presentation with updated or modified engineered plans, and answer any abutter concerns/questions. Mr. Brian Heath, 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 June 11, 2018.

The Board, along with Ed Marchant, 40B Technical Consultant; Mark Bartlett, PE, Peer Reviewer from Stantec Consulting Services, Inc.; Paul Cusson, Delphic Associates; Lawrence Silva, PE, from Silva Engineering; the applicants from Stonebridge Homes Rami Itani and Muhammad Itani, reviewed discussed in detail the following documents:

- Letter dated September 7, 2018 from Stantec Consulting Services, Inc., to Zoning Board of Appeals referenced as *"Peer Review – 7th Letter on Review of Duxburrow Estates, a 40B Comprehensive Permit Project Off Curve Street, Bridgewater, MA 02324"*
- Letter dated September 7, 2018 from Stantec Consulting Services, Inc., to Zoning Board of Appeals referenced as *"Peer Review – 8th Letter on Review of Duxburrow Estates, a 40B Comprehensive Permit Project Off Curve Street, Bridgewater, MA 02324"*
- An email dated, September 12, 2018 from Mark Bartlett, Stantec to the Board, it stated that following:
"In preparation for tonight's meeting I checked in with the engineering group in Stantec's Burlington office that consults with the Bridgewater Water & Sewer Commissioners (BWSC). FYI, the latest report is that BWSC has two issues that have not yet been resolved with the Developer: Water: BWSC wants that the proposed 8-inch water line that is to be installed down the west side of Curve St. (up to the project entrance) should also be extended further down Curve St. (replacing an existing 6-inch water line) up to the intersection of Solar Way, where there is an existing 8-inch water line that continues to Auburn St. The Developer's proposal to date is that the segment of 6-inch water line noted above remain unimproved. Sewer: BWSC wants 1.25" low pressure sewer services to be provided for each home along Curve St. where the new low-pressure sewer (LPS) is to be installed by the Developer. Such LPS services would extend from the new LPS in Curve St. to the property line of each homeowner."
- Draft Decision Letter with Marchant edits as of September 11, 2018 with Track Changes on and in color.

The applicant requested that the hearing be continued as they work through the outstanding issues. 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 at 9:09pm. 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 September 26, 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