



Zoning Board  
of Appeals

## ZONING BOARD OF APPEALS

221 Main Street  
Boylston, Massachusetts 01505  
Telephone 508-869-0143

---

### MEETING MINUTES Monday, August 1, 2022

CHAIRMAN: William Filsinger  
MEMBERS PRESENT: Janet Lombardi, Brad Wyatt, Robert Cotter, Arlene Murphy  
MEMBERS ABSENT: None  
OTHER ATTENDEES: Adam Costa, Special Town Counsel, Paul Dell'Aquila  
Town Planner, Joe Peznola, Hancock Associates  
RECORDER: Nina Gardner

Mr. Filsinger called the meeting to order at 6:47 p.m. The Board reviewed the minutes of July 18, 2022. Ms. Lombardi motioned to approve and Mr. Wyatt seconded; all voted in favor.

#### **100 Shrewsbury Street-Trailside Apartments- Public Hearing Continued-**

Attorney Costa distributed a new draft dated August 1<sup>st</sup> to the Board with changes made based on the last meeting. Attorney Costa reviewed the new draft Decision with the Board item by item. He indicated changes that had been made on each item if applicable. The Conditions were reviewed item by item. Ms. Lombardi requested a change in wording on Item #29. The Board briefly discussed WSP report on traffic. After brief discussion about trip generation, Ms. Lombardi requested the monetary remediation be set at \$25,000 not \$20,000 as recommended by WSP in the event mitigation will be required once the project is complete if traffic numbers increase. The Developer previously agreed to give the Town \$140,000 as part of the Development agreement to be used at the discretion of the Board of Selectmen.

There was mention that the Town has a plan in place for Sewall Street and there are existing funds from other developers and grant money. It was the opinion of the Board to go with the \$25,000 mitigation fee to be written into the Decision.

The Board discussed issuance of permits and time frame with the applicant and Attorney Levine. All Departments and Town Planner sign off on building permits. The applicant asked for three years once permits are issued. It was mentioned, the figures from SHI are not the most current. Town Counsel will reach out to SHI for the latest version of housing numbers.

Town Counsel reviewed waivers with the Board and they voted on each one.

### III. WAIVERS

1. The following waivers were sought by the Applicant and voted on by the Board:

#### *Zoning By-Laws*

- (a) Section 4.02.02, “Schedule of Use Regulations, Residential”: a waiver to allow multi-family dwelling use in the Flexible Business Development and Route 140 Business zoning districts.

Mr. Wyatt motioned to approve and Ms. Lombardi seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.

- (b) Section 4.02.07, “Schedule of Use Regulations, Other (Unclassified)”: a waiver to allow multiple accessory garages for more than four (4) automobiles.

Mr. Wyatt motioned to approve and Mr. Cotter seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver; provided, however, that only those accessory garages shown on the final, approved Plans, as hereinafter defined, may be constructed.<sup>1</sup>

- (c) Section 4.03.03, “Modification to Schedule of Use Regulations, All Districts”: a waiver to allow a residential building with more than two (2) dwelling units.

Mr. Wyatt motioned to approve and Ms. Lombardi seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.

- (d) Section 9.02, “Schedule of Dimensional Requirements”: a waiver from the special permit requirement for maximum building height of “4 stories and 56 feet” in the Flexible Business Development zoning district.

Mr. Wyatt motioned to approve and Mr. Cotter seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.

- (e) Section 10.02.01.1.b, “Off-Street Parking”: a waiver of required parking space dimensions of 9’ x 18.5’ so as to allow 9’ x 18’ parking spaces.

Mr. Wyatt motioned to approve and Ms. Lombardi seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.

- (f) Section 10.02.01.1.d, “Off-Street Parking”: waivers of minimum parking space area of 200 square feet and dimensions of 8.5’ x 18’ so as to allow 162-square-foot, 9’ x 18’ parking spaces.

Mr. Wyatt motioned to approve and Ms. Lombardi seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waivers.

---

<sup>1</sup> Following initial submittal of the Application, a number of garages were eliminated from the Project.

- (g) Section 10.03, “Site Plan Approval”: a waiver from the requirement of site plan approval from the Town’s Planning Board, including all associated requirements. Mr. Wyatt motioned to approve and Mr. Cotter seconded;  
**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.<sup>2</sup>
- (h) Section 10.04.03.B, “Route 140 Development Guidelines, Landscaping”: a waiver from the front yard treatment requirement to allow landscaping in accordance with the final approved plans as hereinafter defined.
- (i) Mr. Wyatt motioned to approve and Mr. Cotter seconded.  
**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.
- (j) Section 10.04.03.C, “Route 140 Development Guidelines, Landscaping”: a waiver from the landscaped buffer requirement to allow the preservation of existing trees and vegetation within the 10’ buffer adjacent to abutting residential lots. Mr. Wyatt motioned to approve and Mr. Cotter seconded.  
**VOTED:** The Board votes 5-0 to grant the aforesaid waiver, subject to Condition No. 17, below.
- (k) Section 16, “Inclusionary Zoning”: a waiver from the Town’s Inclusionary Zoning By-Law in favor of Chapter 40B programmatic requirements. Mr. Wyatt motioned to approve and Ms. Lombardi seconded.  
**VOTED:** The Board votes 5-0 to grant the aforesaid waiver, subject to the Applicant’s compliance with the conditions of the within Comprehensive Permit regarding affordability.

*General By-Laws of the Town of Boylston, Massachusetts*

- (l) Article VI, “Protection of Persons and Property,” Section 6, “Earth Removal By-Law”: a waiver of the requirements of said Earth Removal By-Law to instead accept the grading, erosion and sedimentation controls shown on the final, approved Plans, as hereinafter defined, and to issue a permit thereunder waiving fees and the surety requirement, provided no earth is removed from the Locus. Mr. Wyatt motioned to approve and Mr. Cotter seconded.  
**VOTED:** The Board votes 5-0 to grant the aforesaid waiver(s), provided no earth is removed from the Locus.
- (m) Article VI, “Protection of Persons and Property,” Section 7, “Driveways”: a waiver of the requirements of the Driveways By-Law to instead accept the driveway(s) shown

---

<sup>2</sup> Issuance of such a waiver is consistent with the statutory scheme. See G.L. c. 40B, § 21 (“[a]ny... limited dividend... organization proposing to build low or moderate income housing may submit to the board of appeals... a single application to build such housing **in lieu of separate applications to the applicable local boards**” (emphasis added)).

on the final, approved Plans, as hereinafter defined, and to issue a permit thereunder. Mr. Wyatt motioned to approve and Mr. Cotter seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver.

- (n) Article VI, "Protection of Persons and Property," Section 9, "Stormwater Control By-Law": a waiver of the requirements of said Stormwater Control By-Law to instead accept stormwater controls shown on the final, approved Plans and the accompanying calculations made a part of the Documents, both as hereinafter defined, and to issue a permit thereunder waiving the fees and the surety requirement.

Mr. Wyatt motioned to approve and Mr. Cotter seconded.

**VOTED:** The Board votes 4-1 to grant the aforesaid waiver(s).

*Boylston Conservation Commission Rules & Regulations for Stormwater*

- (o) Section 7.0(I)(4)(e), "Performance Standards: Stormwater and LID Criteria, Additional Design Criteria for Structural BMPs": a waiver of fencing requirement enclosing detention and filtration facilities to allow a post-and-rail type fence in the locations shown on the final, approved Plans, as hereinafter defined, if necessary. Mr. Wyatt motioned to approve and Mr. Cotter seconded.

**VOTED:** The Board votes 5-0 to grant the aforesaid waiver, if necessary.

2. Except where waived, construction in all particulars shall be in accordance with all applicable zoning and other by-laws, rules and regulations of the Town. In the event that the Applicant or the Board's consultant(s), in the final design of the Project, determine that additional waiver(s) not shown on the Plans hereinafter approved are needed, the Applicant shall be required to obtain such additional waiver(s) by written request to the Board. The Board may grant or withhold the same in accordance with applicable rules and regulations.

The Board discussed fees regarding Board of Health and Conservation. The State fees can be waived, but local fees can be assessed by each of those Boards.

Motion to close the public hearing was made by Mr. Wyatt and seconded by Mr. Cotter. all voted in favor.

A motion was made by Mr. Wyatt to approve the Comprehensive Permit for 100 Shrewsbury Street and seconded by Mr. Cotter. A roll call vote was taken:

Mr. Wyatt – yes  
Ms. Murphy – yes  
Ms. Lombardi – yes  
Mr. Filsinger – yes  
Mr. Cotter – yes

Mr. Wyatt motioned to adjourn at 8:25 p.m. and Mr. Cotter seconded; all voted in favor.

**Meeting Materials:** Draft Decision (on file in Bldg. Dept.)