

**ZONING BOARD OF APPEALS
Ipswich, Massachusetts**

**Meeting Minutes
January 17, 2019**

Pursuant to a written notice posted by the Town Clerk and published in the Ipswich Chronicle, a newspaper of general circulation, the Ipswich Zoning Board of Appeals held a special meeting on Thursday January 17, 2019 at 7:30 p.m. in Room A, Town Hall, 25 Green Street, Ipswich, MA. Members attending were Chair Robert Gambale, Benjamin Fierro, Lewis Vlahos, Becky Gayton and Robert Clocker. Also, Administrative Assistant to the Board, Marie Rodgers. Associate member Kathleen Gallanar was absent. This meeting was recorded by ICAM.

Citizen Queries:

Robert Spurrier, 40 Lakemans Lane questioned the who's, where's and why's of affordable housing percentages in town. He was directed to Terry Anderson, Housing Coordinator in the Planning Office and the DHCD web site.

Keri MacRae, 31 heartbreak Road questioned the 40B peer review process and how the Board selects peer reviewers and why town experts are not hired. Chair Gambale related the process; availability and cost are taken into consideration.

Announcements:

Chair announced the continuation of Elder Friendly Housing, LLC. Karl Mayer requests a Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct eight (8) age-restricted for-sale dwelling units of which 25% (2 units) would be subsidized for low to moderate income use at **25 Pleasant Street** (Map 41B Lot 043) (continued from the August, September, October and November meetings)

Documents and exhibits used by the Appeals Board: Request to continue to the 2/21/2019 meeting, dated 1/11/2019 signed by Attorney Paul Ross.

Eric Kocen withdrew his requests for a special permit, pursuant to sections II.B.3, V.D, VI.B, IX.J & XI.J, to construct an accessory apartment in a single family dwelling, and pursuant to section XI.K, variances to allow greater than 900 s.f. of gross floor area and more than one bedroom, at **10 Highland Avenue**. (Map 31C, Lot 110)

Documents and exhibits used by the Appeals Board: Request to withdraw signed by the Petitioner dated 1/7/2019.

Chair announced the continuation of Carole Douglas Hall requests a special permit and/or variance pursuant to Sections II B –XI.J. XI.K and Footnote 2 to the Table of Dimensional and Density Regulations in section VI to reduce the front yard setback from existing 21-feet to 1-foot and to reduce the left side yard setback from 31-feet to 8.5-feet, to construct a two-story addition at **6 Cameron Avenue**. (Assessor's Map 31D Lot 68A).

Carole Douglas Hall requests a special permit to construct an accessory apartment pursuant to sections IX.J & XI.J in a single family dwelling **6 Cameron Avenue**. (Assessor's Map 31D Lot 68A).

Documents and exhibits used by the Appeals Board: Request to continue both hearings to the 2/21/2019 meeting, signed by Attorney Rich Kallman dated 1/16/2019

Chair announced the continuation of Ryan McShera, Red Barn Architecture requests a special permit and/or variance pursuant to sections XI.J and XI.K and II.B.3, footnote 2 to the Table of Dimensional and Density Regulations in section VI for attaching a two story addition to the primary structure, all within existing setbacks at **44 High Street**. (Assessor's Map 30D Lot 33)

Documents and exhibits used by the Appeals Board: Request to continue to the 2/21/2019 meeting, signed by Ryan McShera, dated 1/11/2019.

No one was present for the Petition of Richard and Debra Brockelbank for a use variance, pursuant to section XI.K, to allow an accessory apartment in a two-family dwelling; modification of a special permit prohibiting the creation of an additional dwelling unit; and a special permit pursuant to sections IIB.3, V.D, VI.B, IX.J, & XI.J at **241 High Street**. **Continued from November meeting** (Map 20D, Lot 27A)_Chair tabled the hearing to later in the meeting.

Continued Public Hearings:

Krista and Matthew Banker request special permit pursuant to sections II B.3, XI.J and VI.B footnote 2, Table of Dimensional and Density Regulations, to exceed the front yard setback by more than 10% and reduce the side yard setback by no more than 50% of the required for an addition and porch at **6 Randall Road** (Map 37B Lot 025) (continued from the October and November meetings) Chairman Gambale read the legal notice and re-opened the public hearing at 7:55 p.m.

The Petitioners were present and spoke to the email provided by the Building Inspector dated 1/14/19 Zoning Determination (based on Owners drawing) The proposed extension to this existing non-conforming structure increases the nonconforming nature of said structure and will require a ZBA Special Permit pursuant to IPZB II. B. 3 (d). Chairman read the email into the record. Petitioners submitted a drawing showing the proposal titled Banker Residence, 6 Randall Road, Ipswich, MA; no date; not to scale.

Mr. Fierro recused himself from voting, as he was not present for past hearings and did not watch the video.

The lot is on a corner and has two fronts. The proposed addition would extend along the front of the single family house and measure 43-feet long and 8-feet in depth and encroaches 13-feet on the left side setback, and 22-feet from the front setback.

The Petitioners indicated that it would be a screened in three season porch, with no heat, not to be used as a living space. The addition will be a closet in the bedroom. The Petitioner submitted a hand drawn sketch.

The members of the Board discussed the increase in non-conformity for the pre-existing non-conforming home and the fact that no one objected to the project, determined that it was not substantially more detrimental.

Mr. Clocker reviewed the findings under section II B.3.

MOTION:

Mr. Clocker moved the Board find under II B3 the existing non-conforming building is eligible for relief with a special permit from this Board, providing the modification is not more substantially detrimental.

Mr. Vlahos seconded, the motion passed unanimously. (Mr. Fierro abstained)

Mr. Clocker reviewed the special permit criteria for the proposal which outweighs any negative effects and the materials were detailed and sufficient; a front porch on a single family home would improve the condition of the property and improve the tax base; no impacts on utilities as the porch will not be heated or lived in; it is a modest addition and will be compatible with the neighborhood.

MOTION: Mr. Clocker moved that the Board find the proposal has met the special permit criteria. Mr. Vlahos seconded the motion unanimously. (Mr. Fierro abstained)

MOTION:

Mr. Clocker moved the Board grant the special permit as requested by the Krista and Matt Banker at 6 Randall Road pursuant to sections II B.3, XI.J +K and VI.B footnote 2, Table of Dimensional and Density Regulations related to the addition of a screened in porch and small addition to the home, subject to Plan of land prepared for Matthew & Krista Banker 6 Randall Road dated September 18, 2018 and sketch artist rendition only dated 1/17/19 showing addition no closer than 22-feet to Randall Road and side setback no closer than 13-feet to the side. Mr. Vlahos seconded the motion, and the vote was unanimously in favor. (Mr. Fierro abstained)

Documents and exhibits used by the Appeals Board: Email dated 1/14/19 from Jim Bone Building Inspector. Drawing of the house with addition and porch Banker Residence, 6 Randall Road, Ipswich, MA; no date; not to scale.

Kieran McAllen requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct 40 age-restricted for-sale dwelling units (20 duplexes), of which 25% would be subsidized for low to moderate income use, at **30 and 34**

Town Farm Road and 17 Locust Road (Assessor's Map 30B, Lots 63, 37A and 33) (continued from the May, June, July, August, September, October, November 2017; January, February, March, April, May, June, July, August, September, October and November 2018 meetings)

Chairman Gambale read the legal notice and re-opened the public hearing at 8:10 p.m.

Attorney Kallman reviewed revisions to plans submitted in response to the Conservation Commission (ICC). As a result of those changes, the number of units was reduced to twenty four. He anticipates going back to the ICC in December and abide by their wish that every feature is shown on the plans. The month of February will be used to collect and incorporate comments from Cammett Engineering peer review and any comments from town departments for a close to final plan for the March meeting.

Rich Kirby LEC Environmental Consultants reviewed the process of filing under the State Wetlands Act before the ICC. He spoke to long term protection of the wetlands, landscape plantings and granite demarcation of the wetland line with fencing limiting scope of work and storm water management. The list of waiver request is forthcoming.

There were no questions from the Board.

Paula Gall, Designer reviewed the proposals as shown in documents submitted titled Home Plans Mayapple Patty Cake duplex and Samantha; and exteriors, roof materials.

Ed Champy elaborated and described the materials to be used and explained the location of the duplex and single family as a result of working around the water main. Discussion was held concerning the design and location of garages.

Chairman welcomed comments from the general public.

Helen Weatherall, 44 Fellows Road expressed her concerns about the lack of significant discussions and would like to hear more about limiting the use of chemicals on lawns and protecting the habitat.

Chair responded that there will be more discussions when landscape is in the landscape review meeting.

Rich Kirby LEC Environmental Consultants reported that these discussion were held in the Conservation Commissions meetings. The Order of Conditions will have many conditions eliminating the use of pesticides/herbicides; these conditions will be reflected in the home owners' documents.

When asked about services, Ed Champy responded, he is planning on Natural Gas and Electric. (National Grid)

Mr. Clocker initiated discussion concerning the last two units facing the new road; the sides of the units face Town Farm Road. Mr. Champy spoke to the challenges of fitting in the most units and indicated that they will look into it.

Mr. Kallman noted that Pat Bower will be speaking with Vickie Halmen, Water and Wastewater Director regarding concerns in her email dated 1/16/19 about the proximity of construction to the water main and the depth of the water main shown on the plans.

Chairman welcomed comments from the general public.

Gary Champion, 3 Palamino Way questioned the installation of a traffic light at the intersection of High Street.

Chairman responded and referenced the traffic study conducted when the development was 40% larger; the study indicated that a traffic light would not be required, because the development was 55 and over and would not have a significant impact.

Mr. Kallman related his expectations to go before the ICC in December and come back to this Board at the March meeting with a near final plan and project engineering review.

The Board and the applicant agreed to continue the public hearing to the March 21, 2019 meeting, in room A at 7:30 p.m.

Documents and exhibits used by the Appeals Board: revised plan no title no date; 2 Artform Home Plans Mayapple Patty Cake duplex and Samantha; and Exteriors, roof materials. Email dated 1/16/19 from Vickie Halmen.

Chairman called out for the Petition at 44 High St. There was no response hearing was tabled to later in the meeting.

Essex Pastures, LLC requests Comprehensive Permit approval, pursuant to MGL Ch. 40B, to construct one hundred ninety-four (194) residential rental units, of which forty-nine (49) units would be affordable to households earning no more than eighty-percent (80%) of the area median income at 26 Essex Road (Assessor's Map 54A, Lot 14A) 36 Essex Road (Map 54C, Lot 22); 38 Essex Road (Map 54C, Lot 22A) 42 Essex Road, (Map 54C, Lot 23) and 44 Essex Road (Map 54C, Lot 24). (continued from the June, July, August, September, October, and November meetings)
Chairman read the legal notice and re-opened the public hearing at 8:45 p.m.

The Petitioner and his Attorney John Smolak were present, along with Architect Andrew Zalewski, Bree Sullivan, P.E. Bayside Engineering,
Attorney Smolak spoke to the work session meeting that took place on 1/3/2019. He indicated that there are comments and various issues that still need to be addressed, before landscape and storm water designs are presented. He would like to come to an agreement as to layout.

Chairman announced that Ezra Glenn MHP consultant, will no longer assist the Board due to conflicts with his work schedule. The town manager has appointed counsel from Higgins & Whitten, they will assist the Board at future meetings.

Ms. Sullivan Bayside Engineering reviewed site changes; additional living units above the retail space, reconfiguring parking with total paces to be determined; the road way was reconfigured.
She indicated that she has run the storm water calculations, and the changes will work with storm water regulations.

In response to Chairman's question as to how much land will be going to the new building. Ms. Sullivan responded the additional land going from the center parcel to the development will make it 30% larger. Discussion took place concerning the land value, appraisals. The Board would like to see a new appraisal identifying the additional land area added to the development. Attorney Smolak indicated that MHP will reflect the land value in the proforma.

Lengthy discussion took place between the Board and Andrew Zalewski Architect who spoke to revisions made; the new conceptual plan showing roadway for emergency vehicles. The roadway will be two way; access to site by emergency vehicles was a civil engineering question was deferred to Ms. Sullivan at previous meetings. It was agreed to have school children wait for the bus in the club house/rental building, rather than waiting in the roadway.

The Board raised concerns regarding clear access for emergency vehicles; location of the mail box within the rental office/club house. Ms. Sullivan confirmed loading zones all in accordance with regulations.

Mr. Zalewski described the retail entry way glass front and back with retail like a café for neighbors to gather. Chairman initiated discussion regarding the increase of garages, from two to five making the project denser. How is it decided which residence get a garage?
Mr. Zalewski noted that it's easy to rent garages; it provides additional income and structures would provide additional break up for parking.

Ms. Sullivan provided a sketch (not submitted to the Board) showing scale and site line from the development to the properties abutting along the back lot line. She described how she created the scale drawing with elevations of buildings; discussion followed. Four story buildings at 49.1 feet in height, the tree line estimated with the average tree at thirty-five feet and at that height we have obstruction view from the top floor. Additional evergreens will be planted. Suggestion were made for the addition of a berm. The applicant proposes to plant trees on a berm to mitigate views and building impacts and lights from cars mitigate with a berm.

The Board suggested the applicant provide additional drawings to connect areas surrounding the site including Essex Road.

Chair welcomed questions from the general public.

Keri MacRae, 31 Heartbreak Road submitted a colored aerial photo from forty years ago, it showed her home, the tree line and the applicants property. She opined that it was not as 'pumped up' in the back as it is now; tree line is no longer there, any trees there are unhealthy because of work done. She questioned when a more definitive plan, showing impervious areas with new retail, would be provided.

Attorney Smolak indicated that his objective, is to build consensus and determine, if this is a step in the right direction.

Ms. MacRae expounded that abutters have attended the meetings and at the 11/29/18 meeting a revised plans were submitted; she complained that the applicant has not responded to concerns expressed, one of which is the request for a 3D computer model, the 'sketch' provided this evening, is not a 3D model. She asked for a plan showing roof plans and mechanical equipment lighting plan, site sections, as discussed prior to the November 29 meeting; she expressed frustration that plans keep changing and there is no give and take with abutters.

Attorney Smolak explained that they are trying to evolve the plan, prior to lighting and landscaping, and see if we can get closer to the layout of the entire project.

Ms. MacRae asked if the private roadway would be constructed to standard roadway construction and discussion ensued concerning the flow of traffic, access to retail, pedestrian traffic and emergency vehicles the flow of traffic around the retail portion and the access to the retail portion of the property.

Ms. MacRae voiced her frustration in that the scale of the buildings has not changed, the proposed development of four story buildings abutting residential areas, with only twenty feet from the residential lot line; she went on to protest that no revisions have been make in response to abutters concerns; no one was listening; six more units and twelve more parking spaces were added and an additional 12,000 square feet of retail. She pronounced that its bait and switch and it's not fair.

Ms. MacRae requested a new storm water management study, since more land was added to the development. She asked about response to the IRWA letter with watershed comments, a hazard mitigation plan and drainage study required in 2010. The land sits on the Saltonstall Watershed and is hydrologically connected and feeds private wells and public water supply and feeds into the Ipswich River. The drainage study is number one priority to do a drainage study. Saltonstall Watershed floods and it floods on Heartbreak Road.

Gambale noted that the IRWA letter was sent with other requests for more in depth answers to be discussed at a future meeting.

Ms. MacRae noted her conversations with Katie Masse from MHP and was told that this process is where local concerns are 'flushed-out' and we all work together to make a better project.

Gary Champion 3 Palamino Way spoke to how many units Mr. Bruni can build by right. He related that he raised questions to four MHP people, including the Chief Executive of MHP, over a three week period and he's had zero response to his questions on appraised value; he opined that property is an asset to Mr. Bruni, not an expense applied as a land acquisition cost, the ROD and MHP documents read that it's a transfer of land from one trust to another, under the sole control interest of Mr. Bruni; he opined that 3.155 million cost to the project, which enables an increase to the scale of the project, which is a concern to our town.

He raised his concerns and questioned the process by which MHP analysis of the project profit for the applicant/developer and expressed apprehension regarding the appraised land value and land acquisition cost allowing the increase for the scale of the project. (hereby referenced Gary Champion Email dated December 18, 2019)

Mr. Champion continued to suggest that this development seems to be a for-profit development, that's taking advantage of the 40B concept.

A prolonged discussion took place between the Board, Attorney Smolak and Mr. Champion regarding the 40B process legal transfer of land from one party to another, appraisals and site control.

Attorney Smolak responded to the process of the appraisal being no different than any other in Massachusetts, there are set guidelines developed by DHCD tell exactly how profit is made and the applicant follows extensive this documentation. He has complete confidence MHP did what they were suppose to do.

Discussion took place identifying the concerns communicated; the issue is not that the appraisal was conducted improperly, but that an inflated acquisition price affects the density and inflates

MHP issued an eligibility letter and reviewed the chain of ownership.

Mr. Gambale requested information on the proforma process be made available to the public, saying it may answer some questions folks have and alleviate concerns.

Discussion continued concerning the issue is and is not. Appraisal standards and guidelines and relationship to the 10% profit. The Board and Attorney Smolak agreed to have Ed Marchant attend the March meeting to discuss the calculations further

Keri MacRae 31 Heartbreak Road related that the issue is not the conveyance of property value from LLC, the issue is how it were the appraisals was achieved, she opined that the appraisal were done improperly, in that, it was appraised as if special permits were issued. She referenced a letter from Michael Schaaf in which he cites appraisal issues. Attorney Smolak indicated that was incorrect.

Chris Florio, 44 Fellows Road expressed his distress for the size of the development and the list of waivers requested he expressed concerns for water usage, the current traffic and opined that it will be exacerbated. He asked about number of affordable housing in Ipswich and if researched, and we find we do have the affordable housing, we should make the project smaller.

Judy Ashley, 16 Meadowview Lane said currently the flood lights from Brunis' shine in her bedroom window and urged diligent review of the lighting plan. She noted the other 40B applicants have a higher amount of give and take and why can't we work together, it doesn't fit. She asked whether the Board has asked to lower the density or height. She asked for more feedback.

Charlene Leigh Koser, 29 Heartbreak Road related the location of her home and expressed concerns for tall buildings. She agreed with Keri MacRae comments.

Helen Weatherall, 44 Fellows Road wished to be on record, because she enjoys living here, she spoke to the existing traffic on Lakemans Lane and opined that it is already a cut through and cars travel at high speeds; she predicted there

will be a cyclist injured or killed. It will become even more dangerous, we are going to have a monstrosity; the more information we can dig out the better, and it will be expensive for Ipswich. She would like conversations about changing Lakemans Lane to a single direction road.

Ellen 18 Meadowview Road stated her agreement with all the speakers; she spoke to traffic issues, not only on Lakemans Lane, but Heartbreak Road as well; it's not safe to walk or bike, it's very dangerous; she opined the traffic study is not reality. She questioned why more information isn't presented on the overheard screen.

Mr. Clocker summarized the architectural workshop meeting he attended on January 18, 2019 (as encouraged by MHP). Cliff Boehmer of Davis Square Architects, peer review for the Board and the applicant's architect Andrew Zalewski attended. (Mr. Clocker's MEMO is hereby incorporated by reference)

At the last meeting the applicant architect agreed a 3D model would be provided.

Mr. Fierro spoke to the new layout, as an improvement over the original plan, but it's like moving furniture around; the reduction of one building was an improvement, but still resulted in an increase of units. He acknowledged that an increase upset the neighbors and abutters. He expressed concern about the four story buildings and would like to see plans address the concerns and impacts on abutters that haven't been addressed. He appreciated the four stories sketch, showing sight lines with direct abutters. He acknowledged that the applicant would like to move forward, and have the Board agree on a layout, but indicate that were not there.

Discussion was held concerning the next public hearing on February 21, 2019. It was noted that Mr. Fierro will not be at that meeting.

Attorney Smolak consulted with Mr. Bruni and requested to continue to the March 21, 2019 meeting. The Extension of Time to the April meeting was submitted previously.

Documents and exhibits used by the Appeals Board: Davis Square requesting additional documentation dated 1/10/19; Summary from the architectural meeting by Clocker dated 1/17/19 and one aerial view of subject area from forty years ago submitted by Keri MacRae, 31 Heartbreak Road.

Approval of Minutes:

Mr. Fierro moved to approve and accept meeting minutes of 11.15. 18 and 11.29.18 and. Mr. Gambale seconded, the motion passed unanimously. (meeting minutes hereby incorporated by reference)

Chair called out for Richard and Debra Brockelbank **241 High Street**; no one responded, the Petitioner was not present. Discussion took place and the Board agreed to continue the Petition to the February meeting.

MOTION:

Chair moved to administratively continue the petition to the 2/21/19 meeting. Mr. Vlahos seconded, the motion passed unanimously.

Adjourn - As there was no further business, the Board voted unanimously to adjourn at 10:48 p.m.

Respectfully Submitted,
Marie Rodgers

These minutes were approved by the Board on March 21, 2019.

Pursuant to the 'Open Meeting Law' the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting; the members present or absent; the findings made and actions taken. Any other description of statements made by any person, or the summary of the discussion on any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.