

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
JUNE 03, 2015**

Members Present: Christopher Graham, Chairman
Gerald Coutinho, Vice Chairman
Heather L. Salva, Clerk
Gary Simmons
Larry Kidney
Roger Menard

Members absent: Donna Lambert

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:00 P.M. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, section 20(e) – Meeting being recorded.

Brookmeadow Westport, LLC - RE: A Determination Request of a Comprehensive Permit for Brookmeadow Estates – Notice of Project Change; revised plans and waivers for a reduction of project from 52 houses to 12 houses.

Hearing request: Graham, Coutinho, Salva, Simmons, Kidney
Also Present: Ralph Souza, Building Commissioner/Zoning Enforcement Officer
Attorney Ilana Quirk, Town Counsel-Kopelman & Paige
Robert Carrigg, Brookmeadow Westport, LLC
Alan Heureux, Civil Engineer
Attorney Peter Freeman, representing Brookmeadow Westport, LLC

Attorney Quirk reviewed the request from Brookmeadow Westport, LLC. Attorney Quirk stated that a Comprehensive Permit was approved in May, 2003 and an extension of the deadline was granted to October 6, 2015 per request of the applicant. Attorney Quirk stated the request before the Board tonight is a Project Change for a reduction in the number of units from 52 units to 12 units. Attorney Quirk stated the Board may want to have a Peer Review done on proposal. Attorney Quirk stated the Board tonight has two options: Option #1 – the Board makes a determination as to whether this change is substantial or insubstantial; if the determination is substantial, a public hearing must be opened within 30 days with a determination given within 20 days. Option #2 – If the Board wants a Peer Review made of the changes, then an extension must be granted by the applicant and another public meeting will be held to make a determination based on the Peer Review Report. Attorney Quirk again stated tonight, the ZBA must find the changes to be substantial or insubstantial or to ask for a Peer Review; also, another issue is that the permit was written back in 2003 for 52 units, the Board will need to look at how the permit will change due to the fact that it was based on 52 units and is now being reduced to 12 units.

Attorney Freeman noted that the original decision was appealed by an abutter, not the applicant. Attorney Freeman stated the difference from the original project is that it is going from 52 units to 12 units; by reducing the units down to 12, there will be much less of an impact on the area. Attorney Freeman stated a new list of waivers has been submitted and his client is amenable to extending the time for a Peer Review. Mr. Coutinho questioned the fact that a request dated March 16, 2004 to reduce the number of homes and house lots from 52 to 46 was never acted upon. Attorney Freeman stated that is

correct, the request was never acted upon due to the fact that there was ongoing litigation both in Superior Court and Land Court and the request for a modification was premature, so it has no relevance on this and no extension has been recorded.

Chairman Graham asked if Attorney Freeman's client would be willing to cover the cost of a Peer Review. Attorney Freeman responded yes. Mr. Carrigg agreed on up to \$5,000.00.

Mr. Heureux then gave a presentation of what his client, Brookmeadow Westport, LLC is proposing for a reduction of the project from 52 units to 12 units off of a 900 ft. extension of Brookmeadow Lane. Mr. Heureux stated the 12 lots will be over 3 acres of land and range from 9,500 sq.ft to 12,000 sq.ft. lots; there will be a 20 ft. paved road width with cape cod berm over one acre of land. A stormwater management plan has been developed for 12 houses. Mr. Heureux stated an NOI will be filed with the Conservation Commission for the stormwater basins; the Angeline Brook has been delineated and approved in 2012 by the Conservation Commission and an Order of Resource Area has been approved; all has been designed according to DEP Standards; a shared septic system is being proposed; each house will have their own septic (which is gravity fed to a lift station and leaching field) and well (similar to urban sites); there will be two leaching fields, which are designed using the Title V code; and we are proposing a 10,000 gallon fire cistern, which is required for more than three lots, and it will be located at the mid-point of the subdivision roadway. In summary, Mr. Heureux stated the roadway will be designed using the Planning Board's standards and the septic will be designed using Title V standards. Mr. Heureux stated these plans will be going before the Board of Health on June 19th and before the Conservation Commission sometime in July. Mr. Heureux stated there are no site distance or access issues; this is a safe roadway design.

Mr. Coutinho asked if there was any land swap or is it the same land, shape and size from the past. Attorney Freeman stated the total area is less than before. Mr. Heureux state the land stayed the same; the 12 lots of Meadowbrook Farm are not part of the development. Mr. Coutinho then asked, if the particular property is the same, the change is in the development. Mr. Carrigg stated the proposal piece has not changed. Mr. Coutinho stated the lot sizes range from 9,500 to 12,000 sq.ft., are those the same size lots from the previous 40b. Mr. Heureux stated a minimum of 25,000 sq.ft is needed; these are smaller, and with a shared septic system and onsite water, we could reduce the size. Mr. Coutinho questioned the 20 ft. width of the roadway and questioned if that was accepted by the Planning Board. Mr. Heureux stated all has been accepted. Mr. Coutinho stated the previous project included 40b home ownership, does this have it also. Mr. Heureux stated yes. Chairman Graham asked which lots would be affordable housing. Attorney Freeman stated the State regulations call for random disbursement and the MA Housing reserves the right to pick the units; there will be three lots which is 25%. Mr. Menard asked if the building will be done in phases. Mr. Carrigg stated the project may start with five or six and completed within a couple of months for all twelve. Attorney Freeman stated the infrastructure will be built all at once. Chairman Graham asked if there has been a review of the pro-forma. Attorney Quirk stated that will be done at a public hearing; at that point, the Board can impose conditions as long as there is no economic affect rendered under those conditions. Attorney Quirk questioned the drainage basin appearing outside of the parcel being presented; is this due to the reduction of land from the acreage; also, is the area where the drainage is located on the original 83 acres, why is there no boundary around it. Attorney Quirk questioned jurisdiction; is the land still owned by the original owner. Attorney Freeman stated we need to show an easement for the parcel. Mr. Heureux stated it is on a separate parcel of land still owned by the same property owner. Attorney Quirk recommended that a demarcation of the area (easement area) needs to be a condition of the permit. Attorney Freeman assured Attorney Quirk that the easement will be addressed. Attorney Quirk stated in the new permit, this will have to be addressed. Discussion ensued regarding the reduction of the site, the formula used to determine a substantial change, utilities, the road, catch basins, etc. Mr. Coutinho asked if there would be a common driveway. Mr. Heureux stated no. Mr. Coutinho asked if any other subdivision in Town

had a shared system. Mr. Heureux stated there is a similar system for an area near Roberts Street and the Edgewater Apartments off of Sanford Road but no subdivision.

Attorney Freeman stated it is understood, there maybe a lot of questions not thought of tonight, therefore, a Peer Review is amenable and if all is not satisfied after the Peer Review, then we can begin with a public hearing. Mr. Coutinho stated it is not a huge thing but he wanted to make sure that the Peer Review covers all.

At this time, Attorney Quirk explained what steps will follow the Peer Review. Discussion ensued regarding who will do the Peer Review. It was noted that Horsley & Witten were the original engineers for the Town on Brookmeadow and the Town has retained Tibbetts and it's engineer.

Motion made by Mr. Coutinho to authorize the Chairman to enter into a contract, not exceed \$5,000.00 for Peer Review; to notify the applicant of the intended Peer Review choice; and to consider former Peer Reviews of this project. The scope of the Peer Review will be plan review, site distances, road, etc. Second by Mr. Simmons. The Board voted unanimously in favor.

Motion made by Mr. Coutinho to continue this matter to a future meeting, no later than July 22, 2015 in order to have a Peer Review and to make a determination of substantial or insubstantial change. Second by Mr. Simmons. The Board voted unanimously in favor.

Mr. Carrigg stated the delivery of the \$5,000.00 will be in a check for the cost of the Peer Review. Attorney Quirk stated the funds will be placed in a special account by the Treasurer's Office specifically for this purpose.

Attorney Quirk reminded the Board that a determination must be made by July 30, 2015.

This matter is closed at 8:10 PM.

Approval of Minutes

Motion made by Mr. Simmons to approve the Regular Meeting Minutes of March 4, 2015. Second by Ms. Salva. The Board voted 5 in favor, 1-abstention (Menard), 1-absent (Lambert).

Other business – None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting – None.

8:25 PM

Motion made by Mr. Simmons to adjourn the Zoning Board of Appeals Meeting. Second by Ms. Salva. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,

Diane Pelland, Principal Clerk to the Zoning Board of Appeals

APPROVED: _____
Heather L. Salva, Clerk