

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
January 18, 2007**

Members present:

Donald Foster, Chair; C.R. Canessa, Member; David Curtis, Member; Joseph Beneski, Associate Member; Stephen Flood, Associate Member; Eric Levitt, Associate Member
Atty. Laura Pawle was also present

Regular Meeting:

Mr. Foster opened the regular meeting at 7:04 p.m.

Roll called. Bills signed.

Mr. Flood then addressed the Board. He advised that tonight's meeting would be his last. He had purchased a home and a business and was relocating to South Carolina. Mr. Foster stated that both the Town and the Board appreciated the contributions that Mr. Flood had made and he wanted to personally thank him on behalf of the Board. Board members wished Mr. Flood the best of luck in his new endeavor.

Mr. Foster said that in light of this Mr. Flood could take part in discussion but he asked that Mr. Beneski and Mr. Levitt participate in any voting.

Mr. Beneski made the motion, seconded by Mr. Curtis, to approve the Minutes from the December 14, 2006 meeting. The vote was **unanimous for**.

Stagecoach Village LLC hearing – continued:

Mr. Foster reopened the Stagecoach Village LLC hearing at 7:15. He read part of a letter dated January 11, 2007 from Atty. Gay. His clients felt that it would be more beneficial to continue the hearing to allow for time for peer review from BSC and also Mr. Heaton.

Mr. Curtis made the motion, seconded by Mr. Canessa, to continue the Stagecoach Development LLC hearing until February 15, 2007. The time would be at 7:15. The vote was **unanimous for**.

The hearing closed at 7:17.

Six Bridge St. Realty Trust hearing – continued:

Mr. Foster reopened the Six Bridge St. Realty Trust hearing at 7:17. He advised that they were here tonight to discuss and deliberate the request that was made to alter the floor plan, the shape, and the plot layout which they believed was a substantial change.

Mr. McCarron said that was correct. They are reducing the foot print of the building and moving the bedrooms from the first floor to the second floor. They are also looking for a change in the marketing to people not just 55 and older.

Mr. Foster asked Mr. McCarron how much he thought this would change the financial structure of the project. Mr. McCarron said that the 55 and older was a tough market right now and that this would open up things a little.

Mr. Beneski said that if this was being opened up to a younger age bracket, there was the potential for more school age children. Mr. McCarron did not feel that there would be a huge amount of children. Mr. Beneski replied that he did not know that for sure. He also said that they did not have any of the new plans and that the Board would like to see what this is going to look like.

Mr. Foster agreed and said the Board needed two things. One would be a new set of plans with a plot plan and the second would be an updated proforma. He felt that it was almost like starting the project over. Mr. Foster said that he was toying with suggesting to the Board that they ask for a proforma and a peer review of that. Mr. McCarron asked who had reviewed it the last time. Mr. Foster replied that they, along with Jay Talerman, had reviewed it themselves. He said that it was their first one and he felt that they might have missed things by doing that.

Mr. Beneski noted that originally when the project was proposed it went in front of all the other Boards as a 55 and older project. Now that is to be changed, wouldn't it be appropriate to take it back to the other Boards? Mr. Foster felt that for most Boards there would be no impact. Mr. Beneski still felt that either the developer or the ZBA should advise other Boards what was the proposed change and if they had any input or comment. Mr. Foster felt that was a good idea. He suggested that he write a one or two paragraph memo to the other Boards with a brief explanation of the requested changes and ask them if it would impact or alter any of the decisions that they might have made previously. Mr. Foster asked Board members what they thought. Mr. Curtis agreed that it was a good idea to contact the other Departments so that they would be aware of the changes.

Mr. Foster asked the Board what they thought of a new proforma and peer review. The kinds of things that could be looked at were when contractors pay themselves for being supervisors. Mr. McCarron said that had been discussed previously. Mr. Foster suggested maybe a truncated proforma. Mr. Curtis agreed that since this had been done with all the Permits moving forward from this one it is what they should do. Mr. McCarron said if that was the case he would like to get the process going. Mr. Foster said that he would contact Mr. Heaton and ask for an estimate of the charges. He did not

want to spend Mr. McCarron's money irresponsibly but they did have to protect the interests of the Town. Board members all agreed with that.

Discussion then continued on to the water issue. Mr. McCarron advised that he had received a letter from Town Counsel regarding it. Atty. Pawle clarified that the question was if the Board had the authority to grant a connection to a water line or an extension to a water line. The water line that they were concerned with here was the one that runs on 105. She looked at the IMA agreements between the Town and the City of Taunton and also a number of Housing Appeals Committee decisions.

Atty. Pawle stated that the ZBA acting as the Comprehensive Permit authority has to treat the applicant as they would other residential developer. As they are dealing with a finite supply of water, has that capacity been exhausted? If it has they do have the authority to put the applicant on a waiting list as of the date of the application. Her understanding after speaking with the Town Administrator is that the gallons that the Town has contracted with the City of Taunton have all been allocated. Atty. Pawle said that this particular project is requesting an extension. This is not the same as a connection. A property owner right on that water line has a right to a connection provided the capacity is there. An extension requires the approval of the owner of that water line in this case the City of Taunton. This Board does not have the authority to approve an extension.

Mr. Foster said that when they reviewed Mr. McCarron's request to consider these two changes, they decided that the water line request was insubstantial but that the change in the design and to not limit the project to only 55+ was substantial. They did not appreciate that by deciding that they were granting permission to extend the water line. Mr. McCarron said that they were not holding the Board to that decision. Mr. Foster said that Atty. Bobrowski had been quite forceful in telling them that they did have the authority to grant the water and that they do not have that authority. Mr. McCarron said that was a separate issue and that you couldn't allocate capacity to something that was unrealistic. It's based on building permits. Atty. Pawle replied that if this came to an appeal before the Housing Appeal Committee you would then have to dig into all this background and see what has been the practice in the past in the Town. The point is the practice cannot discriminate against Comprehensive Permit applicants. In this situation many gallons have been allocated to Comprehensive Permit projects. It would be difficult to say that the Town has discriminated against Comprehensive Projects in their allocation.

Mr. Foster asked Atty. Pawle what would be the process to put Mr. McCarron on this waiting list. He recommended that the Zoning Board write a letter to the Selectmen indicating that they would like to put Mr. McCarron's project on the waiting list for water. He was unsure of what else they could do. Mr. McCarron said that he would go to the Selectmen but that his project was the first approved in Town and if anyone got water it should be him. Mr. Foster responded that the Permit granted to him was conditional upon him getting water. Atty. Pawle noted that the applicable date would be the date requesting the modification to the water connection and that would be October 3, 2006.

Mr. Foster said that the Board should weigh in with the Selectmen and try to do as much as they can to satisfy the spirit of what Atty. Bobrowski would like which is to get on a waiting list as of 10/3/06. If the Board grants him permission, he will write a letter to the Selectmen on behalf of the Board in support of Mr. McCarron. Mr. Foster stated that there is one last thing he would like the Board to consider. They granted a one year extension to the Bridge Street Comprehensive Permit. He would recommend that they consider furthering extending that for one year from the date where they conclude this deliberation and vote. After a discussion, members were in support of that concept.

Mr. Foster then asked what their feelings were on changing the age restriction from 55+. Mr. Flood thought neighbors would be concerned about children.

Atty. Bobrowski then arrived and Mr. McCarron recapped what had been discussed with the ZBA. Mr. Foster advised that to save time he would compose a letter to be sent to the other Boards which would briefly describe the proposed changes and asking if the Board would need to review new plans. Atty. Bobrowski said that before he sent that letter he would like to look at a report done by CHAPA regarding children and possibly that could be attached. Mr. Foster replied that he was not going to bias any Board's thinking with what the concerns might be. He was going to tell them what the proposed changes were and ask if the Board wanted to further review it.

Mr. Foster also said that the Board felt that the project will see modest changes and that the economic situation in the last three years has changed and that the project needs a review. They recognize that it is a simple project compared to others in Town but that they would like to make sure it is still economically feasible. They were only looking for a simple one page review.

Mr. Foster advised that regarding the water they had been led to believe that they had the authority to grant some kind of a water connection but in this case they don't and they have no authority. He is going to draft a memo to the Board of Selectmen urging them to put this project on the water waiting list in its proper position as of 10/3/06, the date of the request. Mr. Foster stated that they had also agreed to start the one year extension on the Comprehensive Permit to whenever these deliberations were complete.

Mr. Curtis then made the motion, seconded by Mr. Canessa, to continue the Six Bridge St. Realty Trust hearing until February 15, 2007. The time would be at 7:15. The vote was **unanimous for**.

The hearing closed at 8:23.

Mr. Curtis made the motion, seconded by Mr. Canessa, to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 8:23.