

*Town of Norwell*  
**BOARD OF APPEALS**  
**PUBLIC HEARING of July 24, 2013**  
**Meeting Minutes for Simon Hill Continued Public Hearing**

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**MEETING DATE:** July 24, 2013  
**TIME SCHEDULED:** 7:30 P.M.  
**MEETING LOCATION:** Norwell Town Hall, Osborne Room

**MEMBERS PRESENT:** Lois S. Barbour, Chair  
Ralph J. Rivkind  
Patrick J. Haraden

**OTHERS PRESENT** R. W. Galvin, Town Counsel  
on behalf of the Board: John C. Chessia, P.E., Chessia Consulting Services, LLC

**DEVELOPER'S TEAM:** Warren F. Baker; Baker, Braverman & Barbadoro  
John J. Sullivan, Manager; Simon Hill LLC  
Brian Murphy, Unicorn Realty

The continued public hearing was called to order at approximately 7:40 p.m. with reading of the public notice.

Member Barbour indicated the draft conditions revision prepared by Town Counsel was released the evening prior with a subsequent update, based upon a conversation between Mr. Galvin and Member Barbour, released about 5:30 P.M. the day of the meeting. Paper copies were given to the applicants' team with three copies made available to members of the public.

**PRIOR MINUTES AND INVOICE APPROVALS:** Prior to proceeding with the public hearing, upon a motion duly made and seconded, members **VOTED** unanimously to approve meeting minutes of July 9, 2013, with reading of the minutes waived. Members next, upon a motion duly made and seconded, **VOTED** unanimously to approve Chessia Consulting Services invoice no. 1094, dated 7/3/13, in the amount of \$3,967.50.

**PLANNING BOARD LETTER:** The Planning Board submitted a letter, dated 7/24/13, which was received just prior to the meeting, which Member Barbour read aloud for the benefit of those present. The letter provided suggestions relating to building massing and configuration changes, which the Planning Board noted could result in possible reduction of pervious surface and in general construction costs.

**INFORMAL WORK SESSION (7/23/13) UPDATE:** Member Barbour provided an update on a last-minute informal work session, which ran from 1:00 P.M. to shortly after 3:00 P.M. the day prior to the meeting. The applicants' representatives in attendance included Warren Baker, Jack Sullivan, Brian Murphy, and Deb Keller of McKenzie Engineering. Representing the Town were Member Barbour, Bob Galvin, John Chessia, David Osborne (Conservation Commission Chair), Nancy Hemingway (Conservation Agent), and Chris di Iorio (Town Planner). Topics discussed included Mr. Sullivan's response letter of July 17, 2013, and the revised waiver requests, submitted to the Board on 7/17/13. Some agreement was reached in certain areas but not in others, which will require further Board discussion.

**PROPOSED AGENDA:** The evening’s proposed agenda was anticipated to include discussion of the following:

- Applicant’s submissions
- Review of Waivers and outstanding Draft Conditions
- Public comments
- Board vote on its decision, including conditions and waivers

Mr. Baker expressed concern about the best or most efficient way to proceed. Although the applicant has already responded to certain draft conditions in Mr. Sullivan’s letter of July 17, 2013, there may be value to go through the conditions to address the Board’s concerns about the height of the type of building being introduced to the Town in the proposed development. He also indicated discussion should occur about the buildings within the context of the neighborhood and the project’s affect on neighbors.

He stated there may be an opportunity to look at the issues in relationship to preliminary plans. Height is critical because it dictates the number of units, and the applicant does not want to lose any units. There are height options, including flat, mansard-type or parapet roofs. However, he expressed concern the Board has already indicated the buildings must remain within the footprints shown on the plans.

Mr. Baker noted the Planning Board’s letter has made the point to move buildings toward the center and away from property lines. In order to determine whether that is possible, there needs to be a redesign. However, Mr. Baker wondered whether the current draft conditions could accommodate such a plan change. The potential opportunity does appear to exist to minimize the perimeter buildings and, perhaps, increase the height of the interior buildings.

Although he has not seen the Planning Board letter, Mr. Sullivan stated he has done similar projects where some buildings are taller and some are shorter, which is something they “would certainly look at.” Although indicating he is not a fan of mansard roofs, Mr. Sullivan said he would look at that also. He further indicated he is not opposed to looking at three versus four buildings. However, he will require flexibility for footprints and design—that being the case.

Member Barbour expressed interest in discussing flexibility regarding the footprints, especially in order to move buildings away from Mr. Molla’s property and reduce impacts on other neighbors.

Mr. Baker said the applicant had done this previously and suggested that a permit in hand would help to provide a fully designed and engineered plan.

Member Rivkind suggested the applicant work on such a plan and submit it in six weeks. He further stated the Board has not seen any plan other than those showing the buildings on those already in hand.

Mr. Baker indicated the applicant wants to see if they can work on a plan redesign.

Member Rivkind stated Board members and neighbors have expressed concerned about building height for six months and this is not a new issue.

Member Barbour indicated her concern about reconfiguring the buildings in order to reduce the development’s impact on neighbors. If the applicant is willing to consider this possibility in an

honest way, she stated her willingness to make a personal commitment to get this to work, if possible. However, she stated she did not know how to make this work since the Board is faced with a looming deadline of August 13, 2013.

Mr. Sullivan said that a few feet make a difference, as we have seen before. However, he is not interested in spending time and money without assurances the applicant has a permit with flexibility to design a project that will work.

Member Barbour stated she is not willing to permit a pig-in-a-poke, but stated if the applicant is interested in making an honest effort to proceed as discussed, she is willing to support that effort.

Member Rivkind stated he “is ok with that”.

Member Haraden said he heard the applicant state it wants the permit first and then will come back to the Board. If that is the case, he is not in favor of that action.

Mr. Baker stated he is “not asking the Board to consent ahead of time”. However, he claimed redesign involves a major undertaking and major expense.

Member Rivkind indicated, perhaps, a condition could be agreed upon so that sometime in the future, the applicant with the permission of the Board could change the configuration of the buildings or height. He invited cooperation in order for the applicant to look at alternate plans and then come back to the Board. He indicated the applicant will have to spend money, if it is really going to develop an alternate design. He stated, “What assurance do we have with this flexibility [which the applicant has requested that it] isn’t a waste of time. Where are we?”

Mr. Baker responded that the applicant wants to know if there is a way to know that it has a project and “that the door is open”.

Member Barbour indicated she is somewhat encouraged to hear the applicant is willing to consider moving the buildings. However, her concern is how to go about accommodating the applicant’s side of the table, while protecting the Town’s side.

Mr. Sullivan expressed the hope that with a three-building plan, additional height could be granted by the Board.

Member Barbour indicated that visual impact is a key concern and pulling back buildings from property lines could address that issue. She stated, “I have to say I’m almost excited by the possibilities.”

Member Haraden asked, theoretically speaking, how does the Board know whether the applicant will claim such a condition is after the fact and then use it to argue against the ZBA at the HAC.

Mr. Baker indicated that it would be different, if it were at the applicant’s option.

Member Haraden stated it appears the applicant now has three options for the project. One would be the originally permitted project, while the second would be that currently proposed. A third would be the redesign.

Mr. Baker indicated that once the notice-of-project-change project is accepted by the developer, the old project goes away. However, he acknowledged there is no limit on the number of project

2013 SEP 11 PM 1:41  
TOWN OF NORWELL  
TOWN CLERK

changes allowed. The applicant is willing to try to find a way to lessen the project's impact on the neighbors.

Member Rivkind suggested a written agreement could be signed between both parties to grant time for the applicant to develop a different design within six weeks or other agreed-upon timeline—not the six-month process again—as there is no post-decision review allowed by HAC. He asked Mr. Baker why the applicant is unwilling to spend the money to design the project.

At 8:20 P.M. Mr. Baker requested time to confer with his client.

Upon a motion duly made and seconded, members **VOTED** unanimously to recess for five minutes, which was informally extended to ten.

The meeting resumed at 8:37 P.M.

Mr. Baker thanked the Board for time to consult with his client. He indicated the applicant is willing to work on a redesign but cannot do so with engineering. The applicant would like to continue for thirty (30) days and likewise extend the deadline thirty (30) days beyond that. It would be the applicant's intent to meet with its engineers and architects. The applicant would also anticipate a work session ahead of time and then come back at the public hearing. "If the redesign has legs, we can decide what to do at that time."

Mr. Galvin indicated during the break he had spoken with Mr. Chessia, who suggested a layout plan without engineering would be appropriate.

Mr. Baker agreed that the redesign plan would show the roads, parking, and building orientation but no engineering.

Member Barbour asked whether that could be considered a conceptual plan, which it was acknowledged could be. She indicated willingness to offer informal work sessions—as many as it takes. After some discussion regarding the availability of the Applicant and his counsel, the Board members, the Board's consultant and Town Counsel, it was mutually agreed to continue the public hearing until Tuesday, September 10, 2013.

Member Barbour then called for comments by members of the public.

**Patricia Hainer (427 River Street)** asked about building height and basements. However, as the applicant proposes slab construction and building elevations have already been provided, that is not an issue in question.

**Marie Molla (88 Prospect Street)** asked whether the new design would be available prior to a work session, which she was advised will be the case.

Mr. Sullivan indicated he would get back to the Board within a week about when plans might be available in order to schedule possible work session dates prior to September 10<sup>th</sup>.

**EXTENSION OF TIME TO FILE BOARD'S DECISION:** Mr. Galvin stated Mr. Baker already indicated he would write an extension letter the following day to confirm the agreement to continue the public hearing to September 9, 2013, with the time in which to file the decision extended to October 1, 2013.

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**CONTINUED PUBLIC HEARING:** Member Rivkind made the following motion: "I move that we continue the public hearing on the Simon Hill 40B application, Notice of Project Change, to 7:30 P.M. on September 9, 2013, with the understanding that the Applicant and the Board have agreed that the August 13, 2013, due date [i.e., the time in which to file a decision] will likewise be extended through to October 1, 2013." Mr. Haraden seconded the motion. It was unanimously **VOTED** to approve Mr. Rivkind's motion.

Member Barbour stated the recent work sessions have been very productive and expressed her hope that the Applicant and the Board can continue to work in the same cooperative vein.

The meeting was adjourned at 8:50 P.M.

*These minutes have been approved with reading of the minutes waived by unanimous vote of the Board of Appeals at a meeting duly held on 9/10/13, in accordance with M.G.L. c. 40A, Section 11, and the Massachusetts Open Meeting Law.*

Signed: \_\_\_\_\_ Date: 9/10/13  
As Clerk/Assistant Clerk

*Copy filed with: Office of the Town Clerk*

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