



TOWN OF WEST BOYLSTON ZONING BOARD OF APPEALS

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MEETING MINUTES

September 17, 2015

Chair: Kristina Pedone

Members Present: John Benson (Vice-Chair), David Femia (Clerk), Barur Rajeshkumar and Charles Witkus.

Others Present: Daniel Cronin (Associate Member) and Secretary Toby Goldstein.

Members Absent: Kristina Pedone (Chair) and Paul Hennessey (Associate Member).

At 7:21 p.m., Mr. Benson, who was acting as Chair in Mrs. Pedone's absence, called the meeting to order. He read aloud the first item on the agenda, the Continued Public Hearing for Anne W. Franceschi, 32 Pheasant Hill Run, and then read aloud the names of members present, stated that he was acting as Chair this evening, and announced that he would designate Mr. Cronin as a full member this evening only to vote on the Continued Public Hearing, as he was present at the August 20 meeting when the hearing began.

Continued Public Hearing, Anne W. Franceschi (AKA Anne W. Kanjuru), Petition for Special Permit, 32 Pheasant Hill Run:

(Ms. Franceschi and Susan Meola represented). (For the record, Mr. Benson stated that Mr. Cronin was present at the last meeting).

Mr. Benson stated to the audience that the hearing was continued so that additional information could be obtained. He said that he understood that Chris Lund, Building Inspector, did an inspection of the premises, including the proposed accessory apartment, and said that separation of utilities was not an issue before the board, but whether or not existing conditions were suitable for separation of the utilities. Mr. Benson continued that he asked the petitioner for additional information regarding how the accessory apartment would be separate from the rest of the dwelling, and invited Ms. Franceschi to present her information. (The board reviewed photos from the applicant that Mr. Benson had requested from her). Mr. Benson referred to the first photo of the accessory apartment, which showed the stove on the right,

and one open door shows the stairs leading up to the second story of the split-level home; the second door, adjacent to the other door, divides the lower floor from the entrance to the upper floor (photos on file). Mr. Benson said that anything the board approves is subject to building code conditions that must be met by the applicant. Mr. Benson then asked the board for any questions. Mr. Rajeshkumar asked, if the accessory apartment door is blocked, how would the tenant get out? Ms. Franceschi and Ms. Meola replied that there is a window that he could exit through.

Next, Mr. Witkus asked the applicant if she knew when she purchased the house that it was a single-family residence, and asserted that she is trying to turn it into a two-family residence. Ms. Franceschi replied that it would be a family member living there. Mr. Femia added that it would still be considered a single-family residence, even with the accessory apartment. Mr. Witkus then asked what would happen when they leave? She replied that she hopes another family member would live there.

The applicant and Ms. Meola then informed the board that she is not having separate meters for the main house and apartment anymore. Ms. Franceschi explained that she would like her nephew to be responsible for paying his share of the electricity, but it's not in code so she won't do it. Mr. Benson explained to Mr. Witkus that the Building Inspector said that divided utilities are not allowed. Mr. Witkus asked Ms. Franceschi, since a family member could live there now, why is this issue before the ZBA? Mr. Benson responded that he raised that question at the last meeting, but as the stove is there in the apartment, Town bylaw would be violated if there was not a divided area for the family member.

With no further comments or questions by the board, Mr. Benson then opened the hearing to public comment. First to speak was George Hashway of 24 Pheasant Hill Run. He asserted that, as soon as it becomes two-family, real estate valued will go down; if the applicant makes the house multi-family, others will do it also, and this will change the values of the homes. He opined that the applicant will be getting what she wants while opposing most of the residents on the street and that this is a "set-up" to continue as a rental property.

Next to speak was Louise Hashway of 24 Pheasant Hill Run. She opined that, if the applicant will be collecting rent, others could have rental property separate from their own. Also, she said that this has been a single-family neighborhood and that everyone has wanted that, and discussed the fact that, if the nephew moves out, a non-family member could move into the apartment.

Mr. Hashway spoke next. He asserted that, if it is a rental property, the applicant's taxes should go up and thought that his and others' real estate values will go down, and believed that the majority are against it and that it is still a single-family neighborhood.

Mr. Benson then responded, that in the Town bylaws, a house with an accessory apartment is not considered two-family. A resident in the audience then asked if anyone else could do that? Mr. Benson replied that they would have to come before the board, and that nothing in the bylaws states that, if the board approves for one person, that they have to approve the others. Mr. Hashway asserted that it would not stop.

Mr. Femia spoke next. He discussed that the part of the bylaws regarding accessory apartments was voted in in 1989, and that, if a situation meets all criteria in the bylaws and state building code, that this is what the board looks at. He referred to a comment from Linda Isgro, 58 Scarlett Street, at the last meeting, that the ZBA did not approve many accessory apartments, and Mr. Femia questioned now whether the ones not approved met the criteria.

Mr. Hashway then reiterated his belief that this request is a “set-up” and that the neighbors are being expected to sacrifice their area because one person wants a family member to live with her with their own electricity, and that after the nephew moves out, the applicant can do what she wants. Ms. Meola then mentioned that the issue of the permit started only because the applicant was requesting to install a separate electrical meter for the nephew, and Mr. Hashway argued that the applicant had other people live there before that. (Mr. Benson then ordered him to address the board if he has a comment, and reiterated that the Building Inspector said that separate utilities cannot be done there).

Mrs. Hashway then said that she did not think that it was handled appropriately with the downstairs being done, then the applicant asking permission, rather than the applicant asking for permission first, then remodeling the downstairs. Mr. Benson responded that it was his understanding that the previous owner created the second dwelling, so the applicant purchased it in that condition (Ms. Franceschi and Ms. Meola stated that they did not do anything to the apartment, also). Mr. Hashway discussed the former owners of the house, and asserted that, because the husband was wheelchair-bound, he would go through the garage and basically live downstairs, but there was no stove there and the wife cooked upstairs. Mr. Benson responded that apparently there was a stove when the applicant purchased the house; the previous owner should have applied for a special permit for an accessory apartment but did not, and if the applicant did not come forward because of the separate meter issue, no one would have known.

Next, Mr. Benson moved to open the hearing to discussion with the board. Mr. Rajeshkumar seconded. All in favor. Mr. Benson began by stating that, at the last meeting, the Building Inspector said that one purpose of the accessory apartment bylaw is to provide a variety of types of housing to those that may have difficulty obtaining housing. Mr. Witkus said that he did not see a problem with the applicant being allowed to have her nephew live there, but he also opined that the board does not have to make specific rules for one person and leave the

situation open to others wanting to do the same thing. Mr. Benson responded that the problem is that the Building Inspector indicated that, without a special permit, he would use seek to enforce compliance against the applicant. The issue is before the board, so they have to deal with it, but they cannot approve the request in violation of the bylaws.

Ms. Meola then asserted that the home would be consistent with the rest of the neighborhood and not appear any different, and she thought that the concern was that it would be a two-family house. She continued that her client wants to follow the law, but wants separate living arrangements for the nephew; she believes that all stipulations are being followed. Also, Ms. Meola commented that there is only one bedroom so that only so many people could live there.

Mr. Femia then referred back to the accessory apartment bylaw from 1989, and added that he believed that the applicant has done everything that she was supposed to do; she did not add a stove or bath, and he believed that she has met all the criteria in the bylaw. He responded to a question from Mr. Rajeshkumar by responding that it was a Town bylaw and that the Attorney General approved it in November, 1989. Mr. Witkus suggested that the board can look up in the bylaws the definition of a single-family residence; he asked if that implies that there is a single family living in it? Mr. Femia responded that the bylaw says that someone can have an accessory apartment and it would not change the character of the neighborhood.

With no further deliberation by the board, Mr. Femia moved to approve the special permit for an accessory apartment at 32 Pheasant Hill Run, (added by Mr. Benson) subject to compliance with all applicable building codes as certified by the Town Building Inspector. Mr. Rajeshkumar seconded. Mr. Femia added that a Declaration of Covenant must be registered at the Worcester County Registry of Deeds, and a time-stamped copy given to the ZBA. The vote was as follows:

Mr. Benson – “yes”

Mr. Femia – “yes”

Mr. Rajeshkumar – “yes”

Mr. Witkus – “no”

Mr. Cronin – “no”

(Three voted in favor, (2) were opposed, therefore, Mr. Benson stated, the motion carried and the special permit was granted).

Clerk David Femia’s Financial Report:

This will be continued to the next meeting, as an updated report was not received from the Town Accountant yet.

Update and Informal Discussion Regarding 94 North Main Street:

(Dean Harrison and Iqbal Ali represented for the applicant; Edward Marchant, Affordable Housing Consultant, also participated). Mr. Benson informed those present that, at the previous ZBA meeting, the applicant and Mr. Harrison promised to compile a binder with all relevant documents for the board; there would be one master binder (in the ZBA office), one for the Town Clerk's office, and one for each board member. Mr. Harrison responded that he had some items updated since the last meeting, and explained, for order to the binder, he would add documents to the dropbox on the members' emails, as well as provide hard copies. The binders would contain all current items, and he would present the dropbox items prior to each meeting, and a new folder of the hard copies at each meeting so that they can be added to the binders. Mr. Benson made clear that the dropbox is not a substitute for the binder, as the Town needs access to the new documents. The board members expressed concern that it should be clear when items are being replaced by updated information, and that the applicant should indicate with a submitted hard copy that "this replaces" a designated document. Mr. Harrison agreed with the board that the dropbox would not be a substitute for the binder and the hard copies.

Mr. Benson then wanted Mr. Harrison to go through the binder so that everyone would know what was contained in it. Mr. Harrison first read the updated Table of Contents aloud. Items with comments were as follows:

Mr. Harrison said that items 1 through 6 were for reference only (regarding the Comprehensive Permit, amendment and extension).

Mr. Femia referred to item 20, asking about the Water Agreement status? Mr. Harrison explained that they are updating this evening, and 23 items in the 8/31/15 binder will be updated.

Mr. Femia then asked about items 24 through 30? Mr. Harrison responded that Mr. Benson wants them to go through what they are looking at. Mr. Benson instructed Mr. Harrison that, going forward, he should list the number of pages contained for each item in case something is missing.

Mr. Benson then asked about the last page of the Table of Contents? Mr. Harrison responded that it is a response to what was requested at the last meeting.

Mr. Harrison then presented some updates (which he passed out to the board members and Secretary, for the master binder, the Town Clerk's binder, and for Mrs. Pedone's binder). Those were as follows:

Mr. Harrison passed out an update to item 16, which he stated the board requested last time, as the original set did not have the building cross-section; that is included now.

Next was an update to item 17, building B, which had the same issue; the former copy did not have the second elevation or cross-section included. (Mr. Harrison added that he wanted the dropbox so that others could have access to the information prior to the meetings).

Next was item 21; Mr. Harrison said that he did not have the recording information but there is a Town stamp on it. Mr. Benson noted that it is dated 9/2/15, but the date listed in the Table of Contents is 9/4, and the document was stamped on 9/2. Mr. Harrison responded that the recording information is not attached to the copy, and the date is 9/4/15.

Mr. Harrison next discussed new items for the binder, which had tabs contained with them. First was item #27, where the name of the development was changed to the Village at North Main Street on 5/7/15, and Peabody Properties, the management company, reviewed the operating budget and site plan and found them acceptable. (Mr. Harrison responded to a question from Mr. Femia that Mass. Housing does have a copy of this information. Mr. Marchant noted that MHP is both the subsidizing agency and the Mass. Housing Partnership).

Regarding item 28, Mr. Harrison explained that the architect outlined the specs, 9/14/15.

Regarding item #29, Mr. Harrison explained that this was a letter by the architect stating that when the construction is complete, it will meet ADA requirements.

Regarding item #30, Mr. Harrison explained that this was a letter from the engineer, dated 9/15/15, regarding stormwater management and ADA requirements, stating that the project will comply with both. (Mr. Harrison said that he would pass out copies later of all new and updated items).

Mr. Harrison stated that he will update the Table of Contents at each meeting. He also explained that they will provide the binder items, with date and status of the matter, in a final state for further review, "final" in the sense that they believe the item meets the requirements, but the board may still have comments. Mr. Marchant suggested that the item be referred to as a "final draft." Mr. Benson agreed, explaining further that it should not appear that the item is set in stone; he does not want any confusion about that.

Mr. Harrison next went through the submitted items, dates submitted and any updates given this evening:

First, items 1 through 6, submitted for information only, on 8/31/15; the status is N/A.

Next, item 7, the Commitment Letter from MHP, dated 3/25/15, submitted 8/31/15, needs updating. Mr. Ali added that this cannot be final until they obtain full approval from ZBA. Mr. Marchant responded that it would only be a commitment letter now, as closing cannot be done until everything is completed.

Item 8, the Commitment Letter from Rockland Trust Bank, dated 8/7/15, submitted 8/31, is final, based upon 80 units for the project.

Item #11, the Village at North Main Street Summary, dated 8/19/15, is the final document.

Items # 12,13 and 14, construction plans, landscape plans, and site layout, electrical, hydrant and retaining wall layout plans, Mr. Harrison said they believe are final, ready for review.

Item #15, the lighting plan, Mr. Harrison said is final and ready for submission.

Item #16, Building A prepared by Architects' Studio, was revised this evening, final for submission.

Item #17, Building B, is final.

Item #18, Building C, is final for review.

Item #19, Stormwater Management Plan, was submitted as final.

Mr. Marchant then referred to the lighting plan dated 2/24/15 and the revised site layout by Bertin Engineering dated 5/28; he asked them if anything changed in the lighting plan? Mr. Ali replied "yes", so Mr. Marchant instructed Mr. Harrison to make a note to update the lighting plan.

Mr. Benson then referred to item #15 and suggested that it is not final.

Mr. Benson and Mr. Marchant then instructed Mr. Harrison that item #20 (Water Connection Fee Agreement) was based on 96 units and that they need to submit an update. Mr. Harrison then asked if the board wants a revised Table of Contents based upon comments of this evening? Mr. Benson replied "yes".

Mr. Femia then referred to item #12, based upon 96 units; now that the number is 80 units, he asked if there is an updated construction plan? Mr. Harrison replied that it is being updated by Bertin (item #14). Mr. Marchant asked if the Bertin plans (13 and 14) are based on 80 or 96 units? Mr. Harrison replied that they are based upon 80, and that the architectural drawings reflect 80 units (items 16, 17 and 18). Mr. Ali commented that the parking will be decreased to 172. Mr. Marchant then asked, as there will be less impervious surface, are there any changes being made to storm drainage descriptions? Mr. Ali replied that VHB is reviewing it and will make a statement about this.

Mr. Marchant then discussed that the board needs to reference engineering and architectural plans, but they need to be sure that what they reference are the plans that the applicant intends to build. Mr. Harrison asserted that they have provided the same plans that are being

reviewed by VHB. Mr. Marchant instructed Mr. Harrison that, when the peer review is done, they will make the necessary updates to the ZBA's information as they want to have an efficient system. Mr. Harrison assured him that the board will get all submitted information for the binders, and, going forward, if there are any modifications, he will substitute them.

Referring back to item #12, Mr. Harrison explained that these plans were part of the original permit, and Bertin will adjust them based on 80 units, but asserted that they are not altering the original Marchionda plans, and explained that the Town is using them to review for the building permit. Mr. Marchant commented that he did not understand how the engineer's drawings in item 12 from 2009 had all the details, then was reduced to 80 units, and Bertin explained this in only two pages. He said that they will wait for the comments in the peer review, and the board will decide if it makes sense, and that they want a clear direction so that the Building Inspector can review it. Mr. Ali commented that, for the Building Inspector, only the structural plans concern the building permit, and that VHB is reviewing for the site plan, not the building plan. Mr. Marchant remarked that it is unusual for there to be a new engineer involved, having to make adjustments to the original plans, and reiterated that they should wait for the peer review to make any decisions. Mr. Benson added that the peer review may necessitate changes, and then asked about item #14's status as not being final. Mr. Harrison responded that they are not making changes now; Mr. Marchant added that the item is "currently being peer reviewed" and that the status will be clarified on the Table of Contents.

Mr. Marchant replied to a question from Mr. Femia regarding contact with VHB that, though he did make recommendations on the contract, he usually does not get involved with the peer review.

Mr. Harrison then read items 21 (Recorded Sewer Connection Fee Agreement), 22 (Building Permit Application) and 23 (Draft Regulatory Agreement), adding that #22 needs updating, and #23 will be finalized with MHP. Mr. Marchant continued that the regulatory agreement is important; it has all the requirements of the 40B in it, but ZBA is not involved, just the subsidizing agency and the applicant, and the subsidizing agency is very careful about any changes to the regulatory agreement. The regulatory agreement protects the town as well as the comprehensive permit, and they must be sure that there is nothing in the comprehensive permit is inconsistent with requirements in the regulatory agreement.

Mr. Harrison continued with items 24, 25 and 26, which were place holders; item #27 (Village at North Main Street/Peabody Property Letter) is final. Item #28 (Architectural Outlined Specifications) is final. Mr. Marchant commented that, regarding #28, the board should review this, and Mr. Lund should provide a copy to VHB.

Mr. Harrison then continued that items 29 and 30 were both final.

Regarding item #27, Mr. Femia commented that Peabody Properties had not been chosen as the management company. Mr. Marchant responded that it is not final until Mr. Ali signs the contract. Mr. Harrison added that they are closer to closing. Mr. Marchant continued that MHP has an 11-12 million dollar investment, and they have a say on the property manager.

Mr. Rajeshkumar next asked, regarding items 29 (Architect's ADA Letter) and 30 (Engineer's Storm Water Management and ADA Letter) if VHB reviews these items? Mr. Marchant replied that VHB reviews not only if the site satisfies ADA requirements, but building requirements; it is an independent check, and the Building Inspector reviews the architectural plans and this. Mr. Harrison commented that the architect must review at the end. Mr. Marchant continued that Mr. Lund will look at what has been filed, and the architect is putting his name on the line, so if it does not comply, he does not take it lightly. Mr. Rajeshkumar asked if Mr. Lund or VHB gets it? Mr. Marchant replied that it only says if it complies. The Secretary was instructed to give a copy of #28 to Mr. Lund for review. Mr. Marchant added that Mr. Lund can raise any issues with the applicant about this.

Mr. Harrison continued that he had prepared a response to a list from Mr. Marchant; some of the items were covered already. (Mr. Benson paused to read it).

Mr. Femia then asked about item #30. Mr. Harrison replied that it is a letter from Bertin.

Mr. Marchant commented on item #9, referencing exhibit 7-the permanent loan commitment is there but the pro forma is not. Mr. Harrison responded that he will provide that. Mr. Marchant continued that, especially item 3, MHP is careful when it gives a loan. Mr. Harrison responded that he will provide that tomorrow in a separate attachment in an e-mail, and updated. Mr. Ali added that they will give hard copies to the Secretary. Mr. Benson instructed them to give her a cover letter with it to explain what tab of the binder in which to put it. Mr. Harrison continued that item #7 will be updated.

(With no additional comments by Mr. Marchant, Mr. Benson thanked Mr. Harrison, and Mr. Harrison concluded his presentation this evening). **Note: All binder items are available to view at the Town Clerk's office.**

Mr. Benson then asked Mr. Harrison about the status of MHP? Mr. Harrison replied that they will need about two more weeks. At the request of Mr. Marchant, he explained the process of final approval and that the subsidizing agency must issue final approval, which restates that the project is still fundable and complies with their requirements. Once the applicant has their final approval, he appears in front of the ZBA for their final approval that he has met all the conditions of the comprehensive permit and the amended permit.

Mr. Marchant added that it is critical for the final approval that there is evidence of financing and approval of the Fair Housing Marketing Plan and the regulatory agreement is executed when final approval is granted. Also critical to the final approval is that the applicant must explain any project changes since the original permit was granted; here this is not much of an issue, as the change from 96 units to 80 is the only significant change.

Mr. Witkus then asked Mr. Ali if any apartment buildings in the area appear similar to this? Mr. Ali replied “yes”, and said that there is a project in Hudson and in Worcester that look the same. Mr. Witkus then mentioned two other projects, one in New Hampshire developed by Mr. Lever, and one in Shrewsbury.

Referring to the agenda, which next listed “modifications” as a topic, Mr. Harrison said that there will be no additional modifications. In response to a question from Mr. Benson, Mr. Harrison responded that the parking spaces probably will not be revised based upon the peer review, but it is possible.

Mr. Benson then asked Mr. Harrison what they would be discussing at the October 22 meeting? Mr. Harrison replied that the peer review would be completed, they would have a revised letter from MHP, the construction lender, and any additional updates. Mr. Marchant suggested that the board and applicant would like VHB’s report several days in advance of the meeting to review, and asked Mr. Ali what the status is of the peer review? Mr. Ali replied that it would probably take two to three weeks to complete. Mr. Marchant responded that he must confirm that.

Mr. Femia asked if VHB will come to the meeting? Mr. Marchant replied that they usually would be present and hopes that is included in the contract. He stated that no meeting time was included in the estimate, and the issue now is whether or not the time included the review and time to attend the meeting with the report. He recommended that the board contact VHB and find this out. In response to a question from Mr. Femia, Mr. Marchant stated that Mr. Lund is a liaison to VHB, and suggested that the board tell Mr. Lund that they would like VHB to present the peer review report in person, and would like them to get the report to the applicant and the board at least one week prior to the meeting to prepare responses.

Also in response to a question from Mr. Femia, Mr. Harrison said that he would have hard copies at the next meeting of anything to go into the binders.

Mr. Marchant then asked about the amended and restated draft of the comprehensive permit. Mr. Benson said that they would need two weeks to review it; if there are any questions or comments, they will give them to the Secretary, who will give them to the Chair, who will confer with Town Counsel. Mr. Marchant agreed, because of the Open Meeting Law, that any individual comments should go to the Secretary and not be discussed. Mr. Marchant added

that he will edit it for format regarding 40B, but not regarding the history of the project; once there is a draft that they are comfortable with, they will present it to the applicant. He asked Mr. Benson if they intend to invite Town Counsel to the next meeting?

Next, Linda Isgro of 58 Scarlett Street asked if they can provide the Town Clerk with copies for the public? Ms. Isgro said that, at this time, the Water District manager, Jack Mitchell, commented that there are no water concerns with the project, but that a letter from the district manager in 2003 states the following (for the record):

He said that, at that time, it did not appear that the district can supply enough water to this project. He opined that it cannot supply enough volume to the site for domestic use and fire protection.

Ms. Isgro continued that the present Water District manager, Michael Coveney, said that there would be no problem; but she mentioned concerns about the pipe in the street delivering water not being wide enough and questioned the need for infrastructure upgrades. She wanted this re-visited in case it has been overlooked. (She gave Mr. Benson a copy of the letter from 2003).

Next, Ms. Isgro mentioned the issue of the SWPP plan; she expressed concern at the site being close to the reservoir and public drinking water. She stated that DCR gave a report saying “no comment” but she would like them to comment and be sure that they have seen it and do, in fact, have no problem with it. She also mentioned that, as a member/chair of ZBA previously, she had signed off on this with the condition that the board would have paperwork, but she said that they still do not have it.

Ms. Isgro also questioned if the review of sewer is merited? She said that it should be reviewed by Town Counsel but it was already recorded, and she thought that ZBA should have seen the report before it was recorded to be sure it was the same as in the amended decision and meets the criteria.

Next Ms. Isgro mentioned that, previously (in March), Attorney Bobrowski had requested that Barre Savings Bank and Mr. Ali show that they obtained permission for transfer of ownership of the development. Mr. Benson responded that Mr. Bobrowski had spoken about possibly re-filing a new, re-worded petition, and ZBA acted upon this request and allowed Mr. Bobrowski permission to re-file another petition without another filing fee, but he has not done that. Ms. Isgro then mentioned that ownership had been transferred again, and asked why the board did not ask for documentation of this? Mr. Benson reiterated that the petition had been withdrawn, re-filing was allowed, but it was never acted upon. Mr. Marchant continued that the rules on transfer of permits has changed; previously the board often had the right to approval, but now the subsidizing agency is the only one who does that, and they notify ZBA;

given that MHP has issued the eligibility letter and mortgage commitment, they have approved the transfer. He asked Mr. Harrison if ZBA was ever notified? Mr. Harrison replied that the board had the commitment letter from MHP before, and they voted to approve the transfer of ownership to Sajda Gardens LLC. Ms. Isgro responded that her question referred to prior to that transfer.

Mr. Marchant continued that extension of the permit and transfer of it are two separate issues. Ms. Isgro asserted that Mr. Lever never extended the permit. Mr. Harrison then stated that, in the 4/2015 letter, MHP approved and requested the transfer to Sajda Gardens LLC. Mr. Benson responded that Town Counsel weighed in on that. Mr. Benson asked Mr. Ali if the Board of Selectmen brought the sewer agreement to Town Counsel? He replied "yes." Mr. Femia stated that, regarding the water, on 9/14/15 the Water Department issued the finding that there was sufficient water for the development. Ms. Isgro questioned the pipe being able to handle the volume of water; Mr. Femia responded that the Building Inspector had a meeting, where the Water Department stated that there was sufficient water, and that the Fire Department was probably involved in this meeting, too. Mr. Marchant added that every project has water flow and pressure tests done. Mr. Ali added that item #10 of the binder (in "Correspondence from Town") contains letters from the Fire and Water Departments. Mr. Marchant asked Mr. Ali if there is any offsite input to the water line? Mr. Ali replied "no", and Mr. Marchant said that the pipe is inadequate as it exists. Mr. Femia, referring to the aforementioned letters, responded that Mr. Ali does not have to do anymore regarding the water. Mr. Harrison added that the building permit was issued for the original 54-unit building, but was rescinded. (Mr. Benson responded that this is not being discussed).

Ms. Isgro continued, that the amended sewer agreement came after the HAC decision, and the board (at that time) negotiated with Mr. Lever and included this in the fees (the board settled out of court for sewer betterment fees), and questioned if these fees can be enforced?. Mr. Marchant noted that there are still considerable payments required from the applicant in the water and sewer agreements, but over a 25-year period with no interest. Mr. Femia questioned the fees being according to the 2003 fee schedule, and Mr. Harrison noted that it was originally for 96 units (see 10/3/08 amended decision). (They proceeded to read aloud the sewer fee agreement).

With no further questions or comments, Mr. Benson announced that the next meeting will be Thursday, October 22, at 7:15. Mr. Marchant announced the tentative agenda for the meeting as follows:

VHB Peer Review

MHP Project Eligibility Letter Status

MHP Final Approval Process Update

Updates to Project Binder

Discussion of Amended and Restated Decision

With no further business to discuss, Mr. Femia moved to adjourn the meeting at 10:10 p.m.
Mr. Rajeshkumar seconded. All in favor.

Respectfully submitted,

Toby S. Goldstein, Secretary

Date Accepted: _____ By: _____