

## Great Barrington Zoning Board of Appeals

Minutes June 9, 2016

Attending the meeting at the Great Barrington Fire Station were Chairman Ron Majdalany, Carolyn Ivory, Madonna Meagher, Michael Wise and alternates Don Hagberg and John Katz. Mr. Katz, who had previously recused himself from sitting on the hearing but attended all the meetings, said he had investigated his status and filed a letter with town clerk stating his participation on the board of Construct Inc. would not create a conflict of interest. Town Planner Chris Rembold attended, as did Town Manager Jennifer Tabakin later in the meeting.

The chairman noted that he as of that evening had completed 30 years on the Zoning Board of Appeals and members applauded his long service.

Dr. Majdalany at 7:30 p.m. resumed the continued public hearing on the 100 Bridge Street Comprehensive Permit Application submitted by **Community Development Corporation of South Berkshire**. Tim Geller, CDC executive director, appeared, as did Larry Boudreau, Chazen Companies. Mr. Geller said it was becoming increasingly difficult to treat the entire 8-acre site as a 40B project. The Department of Housing and Community Development had originally issued an approval letter based on its review of the affordable housing aspect, but not the entire project. Approval of the whole project because of the complexity of the financing and potential limits on profits is not forthcoming. Thus the project is re-presented as only the southern 2 acres and only the affordable housing. The remaining 6 acres will be developed separately, likely for market-rate housing and commercial space, through a different section of the town zoning bylaw and subject to B3 Zone special permitting from the Board of Selectmen. He submitted a new, small packet of information that included a cover letter, revised map, aerial view of a project next to a wastewater treatment plant in Stockbridge, a traffic study addendum, approval letters from Peter H. Marks, Fire District superintendent, a water engineering report from Michael J. Budris of Chazen, a letter from Great Barrington DPW Superintendent Joseph Sokul, an amended zoning analysis and a likely timeline.

The proposal is for 45 affordable housing units in three buildings, with entrance being a driveway from Bentley Road. Mr. Geller said CDC hopes to enter into partnerships to develop the rest of the land, but it should not be considered by the ZBA. Mr. Geller said that remediation of contamination of the entire site could be a condition of the ZBA's comprehensive permit. He suggested a building permit be contingent on a Form A subdivision plan approved by town counsel; ZBA approval of final plans and specifications; a valid floodplain permit for 100 Bridge St. that includes the affordable housing parcel; an easement agreement that allows storm water management to be shared between parcels; and all environmental permits, wetland and hazardous waste, be obtained from the commonwealth.

Nothing has changed as far as what is proposed for the affordable housing acreage. This land and land beneath the riverside walkway will be totally clean of toxins. On the rest of the parcel, contaminated soil will either be buried 3-6 feet below the surface or covered with parking lot pavement or building footprint. Mr. Wise observed that the project is still three massive buildings wedged between a sewer plant and a toxic waste field. Mr. Hagberg observed that the new limited scope of the project meant there would be no other placement of this housing. Mr. Geller agreed the rest of the land is off limits. Mr. Hagberg inquired about whether the affordable housing was now liked with proposed market-rate housing. Mr. Geller said they would have separate financial packages. The affordable housing will be built with the help of tax credit dollars.

Ms. Ivory asked what the buildings would look like. Mr. Geller explained that they have yet to be designed, but the board may condition the permit on its ability to review architectural and site plans 45 days before construction starts. The same condition was put on the CDC's State Road 40B project. CDC, he explained, has limited funds for design now; with HDC approval, it will quickly prepare plans. Mr. Geller said a plus now is, under the town's zoning bylaw, the remainder of the site will have to include 10 percent affordable housing for any market-rate housing. This means four more units. Mr. Rembold said the town now has 7 to 8 percent affordable housing; the Massachusetts goal is for each community to have 10 percent. Until that point, it is subject to Chapter 40B. Ms. Ivory asked what the site will look like if the affordable housing is developed first. Mr. Geller said it is possible the market-rate housing will be built first, but at any rate, the entire site will be remediated, some with temporary caps, the rest permanently. She specifically wondered about the fencing and green screening. Mr. Geller said they only want to move the soils once. He said the toxic soil cannot be removed from the site, per environmental law. Regarding closeness of the buildings to the wastewater treatment plant, he said there has been positive response to a similarly sited housing development near the Stockbridge treatment plant.

Waivers sought include density (45 rather than 38 units). The bylaw specifies 225,000 square feet; the site is 97,119 square feet. Also, waiver of a northern side yard setback, 3.5 feet instead of 10 feet. Also requested are waivers of parallel parking dimensions (22 feet instead of 23) and of building permit fee (\$56,000 estimated) and sewer hookup fee (\$27,000 estimated).

Mr. Geller said that a bioremediation strategy was cut short by the commonwealth's Department of Environmental Protection. What was done disrupted a small wetland area. To make up for that, it is proposed to divert a stream that flows underground through the south end of the project be returned to open stream and diverted around the wastewater treatment plant to an area where it will filter into the Housatonic River. DEP agrees to this, he said. Mr. Wise observed that in a worst-case scenario, the affordable housing might be built and nothing happen on the rest of the site for a time. Mr. Geller said it is not in the ZBA's jurisdiction, and the remediation strategy is to clean the whole site. In answer to a question from the chairman about the DHCD letter, Mr. Geller said the original letter, for the affordable housing portion, is in force, and the proposal was refigured to match that letter.

From the audience, Eileen Mooney asked about the HCD letter. Mr. Rembold said the HCD looked only at the affordable housing aspect. Paul Ivory of the Historical Commission thanked Mr. Geller for his efforts to preserve the smokestack and urged it be retained or carefully moved in the development of the 6 acres. Selectman Ed Abrahams said the revised application gives a plus as the Selectmen can have more say in the development of the 6 acres. Mr. Geller said the town would have had oversight anyway, through a different board. Jana Vilner asked if the ZBA members felt comfortable leaving toxic materials below ground or beneath footprints — for public health. Mr. Geller again explained how the toxic material would be dealt with, under DEP oversight. Mark Cohen asked about the impact of the affordable housing, being close to the wastewater treatment plant, should the plant need to be modified. Mr. Geller said the plant has had excess capacity since Rising Paper stopped sending its sludge. Andrea Cohen said the sewer plant smells of chemicals and is noisy. She suggested a dome be built over it.

Charles Bouteiller said it goes against common sense to bury the toxic material, as there is groundwater. He suggested pressuring DEP. Mr. Geller said he tried that through the town's state representative and senator, but got nowhere. Mr. Bouteiller asked about underground utilities. Mr. Geller said National Grid will still bury cables. Heather Bellow asked about the status of the bioremediation. Mr. Geller said that project was done. Ms. Cohen said if the stream is opened to

the air, effort should be made to have it fast-running, so mosquitoes won't proliferate. Meaghan Flynn said the sewer plant is noisy and should be covered, or at least sound barriers erected. Town Manager Tabakin said the sewer plant is in a second phase of improvements, and from what she's hearing, there perhaps should be a public meeting to discuss code compliance and other issues.

Mr. Rembold urged the board to keep the hearing open, as now he and town counsel David Doneski need to draft a findings document and checklist for the board, and the board may have new questions for the applicant. Mr. Hagberg moved to continue the hearing to June 28, 2016, at 7:30 p.m. at Town Hall. Ms. Meagher seconded and the vote was unanimous.

There was no further public comment

In other business, the board on a motion by Ms. Ivory, seconded by Ms. Meagher, voted unanimously to recommend that Mr. Hagberg be reappointed as an alternate member. The appointment is made jointly with the Board of Selectmen.

On a motion by Mr. Wise, seconded by Ms. Meagher, the board voted to approve the minutes of the March 22, 2016, meeting.

The meeting adjourned at 9:30 p.m.

Respectfully submitted

  
Bernard A. Drew

