

## Great Barrington Zoning Board of Appeals

Minutes July 26, 2016

Attending the meeting at Great Barrington Town Hall were Chairman Ron Majdalany, Vice-Chairman Carolyn Ivory, Madonna Meagher, Michael Wise and alternates Don Hagberg and John Katz. Town Planner Chris Rembold attended, as did Town Counsel David Doneski. Town Manager Jennifer Tabakin and, for most of the meeting, Selectmen Stephen Bannon and William Cooke were in the audience.

Dr. Majdalany opened the meeting at 7:30 p.m., for continuation of the **100 Bridge Street/CDC** Comprehensive Permit hearing. Timothy Geller, CDC executive director, and Chairman Majdalany signed a Consent to Extension of Hearing Period for Application to Great Barrington Zoning Board of Appeals, extending the hearing beyond 180 days from the date of the opening of the hearing, up to and including Aug. 18, 2016. The board has 30 days from the close of the hearing to render a decision, Mr. Doneski said.

Mr. Geller, Attorney Peter Puciloski, also Richard Stanley and Jeffrey Cohen, CDC board members, spoke on behalf of the proposal. Mr. Puciloski said a Comprehensive Permit can't be denied or conditioned to the extent it becomes uneconomical for the applicant; Massachusetts' Department of Housing & Community Development will uphold an appeal. A reduction in the number of units would likely be overturned by HCD, as would limitation to three-story buildings. He said the application is now for 2.2 acres, not the whole 8-acre site. Mr. Geller handed out two new maps and a packet of documents. He explained why the applicant's original orientation of buildings had the best viewsheds, and that a Planning Board suggestion to orient them otherwise actually aimed many windows at the town's wastewater treatment plant.

Mr. Geller read into the record a letter from Cara Davis of Lake Road and his own letter, "100 Bridge: Fact, Fiction, Fear and Fantasy," in which he countered points made by abutters and others in mailings and in the media.

Mr. Geller presented a written list of requested waivers and proposed conditions, dated July 26, 2016. The CDC asked a density waiver, to allow 45 residential units when 38 are allowed; a reduction in minimum sideyard setback, to 3.5 feet; 69 off-street and three on-street parking spaces, instead of zoning-required 90 spaces; reduction of parallel parking dimensions, 22 feet instead of 23 feet. Also, waiver of building permit fee, estimated at \$56,000, and sewer hookup fee, estimated \$27,000.

Mr. Geller said the ZBA has not granted fee waivers in the past, but this project has both added cost (site remediation) and positive impact (affordable housing, green space, sewer line easement) for the town.

Proposed conditions: Form A subdivision plan approved by Town Counsel; Board approval of final plans and specifications; valid floodplain and Water Quality Protection District permits for entire 8 acres; easement agreement that allows stormwater management and parking to be shared between parcels. (After discussion, applicant indicated willingness to include an easement regarding use of green space by affordable housing residents.

A Certificate of Occupancy would be contingent upon valid wetlands and riverfront environmental permits as required by the commonwealth; all remediation, construction and maintenance on the site, as well as all remediation, construction and maintenance on the remaining approximately 5.8 acres of the 100 Bridge property shall be performed strictly in compliance with all regulations, orders and permits of the Massachusetts Department of Environmental Protection. Mr. Geller said DEP maintains health and safety standards in Massachusetts. Will all remediation be done before construction begins? It's up to DEP, he said. CDC prefers to do it all at once. Mr. Puciloski said it might cost \$1 million to do the remediation, and CDC didn't want to duplicate efforts, that is, move some soil for the affordable housing and move it again for later construction. The ultimate capping will be building foundations, parking

pavement and clean soil. Mr. Wise asked several questions about the actual cost of remediation, but Mr. Puciloski said a precise figure was unavailable. The highest, S-1 standard will be obtained for the housing acreage, Mr. Geller said. Mr. Hagberg asked about site testing. Mr. Geller said there will be extensive testing by a licensed professional, subject to DEP review. He said two places on the site where there were New England Log Homes dip tanks, have already been excavated. Other dioxins go no deeper than 18 inches.

Mr. Geller answered several questions about a traffic study, and particularly summer peak traffic. Mr. Rembold said the town shared information it had, and CDC's traffic engineer applied a multiplier to simulate July/August conditions. Peak expectation is 90 or so additional vehicles per hour. CDC suggested stop signs should be considered on Humphrey Street and Bentley Avenue at intersections with Bridge Street.

Pressed by Mr. Wise for financial information, Mr. Cohen said the project has a limited income stream as rents are regulated. The costs to remediate, build and maintain the housing on the other hand are not regulated. CDC is seeking Housing Tax Credit and other funds to help cover costs. Richard Stanley said CDC needs to find an experienced developer who will take on this relatively small project. CDC hopes to submit an application to a September funding cycle with Massachusetts. Mr. Stanley said potential tenants can be a four-member family earning in the high 40's a year.

Chairman Majdalany went through a list of conditions proposed by the Select Board, asking Mr. Geller's response to each. Mr. Geller said CDC was agreeable to no building permit issuance until a remediation plan is approved by DEP for the entire parcel; and that remediation be done in compliance with DEP and/or Conservation Commission requirements, including limitations on dust, odor and noise. When the project is completed, affordable housing residents would have access to green areas on the entire parcel. The affordable housing units would remain such in perpetuity, Mr. Geller said.

Mr. Geller said CDC would, if it could, remediate the full site before seeking a C of O. (The Planning Board made this same suggestion.)

On several matters regarding building scale and design, Mr. Geller and Mr. Puciloski stood by the need for four-story buildings of the stated density. They also stood by the original footprint orientation. The building siding on the most recent presentation to the ZBA uses cement board, which resembles clapboard.

Regarding low-intensity lighting, Mr. Geller said CDC's engineer had already presented such a plan. On the suggestion that future commercial development should complement the residential neighborhood, Mr. Puciloski said that's not part of this application, nor another suggestion that all conditions apply to the entire site. Mr. Geller agreed to construction hours limited to 7 a.m. to 6 p.m., no construction on Sundays, unless waived by the Selectmen.

The Select Board suggested no fees be waived.

To the Planning Board's recommendations, Mr. Geller said a case had already been made for the original orientation of buildings. He agreed a final site plan could be referred to the Planning Board for review. CDC already agreed to stormwater, parking, open space and floodplain easements for the entire site.

Regarding the Planning Board's suggestion any temporary fencing between the affordable housing and the rest of the parcel be placed at least 25 feet north of the northerly 40B lot line, Mr. Geller said it would be up to DEP.

Regarding Design Advisory Committee suggestions — apparently made without a CDC representative at the meeting and without a copy of the July 8, 2016, architect's rendering of a typical building, said "The design of the buildings is not great." The committee expressed concern the entire site might not be developed. Mr. Cohen said CDC has made considerable investment in the project and will see it through.

Mr. Hagberg pointed out there were no yards for children of tenants to play in. Mr. Geller said there would be, along the river front (not close to the river) and in later green spaces. Mr.

Hagberg said there was more open space in the CDC's Stockbridge project. Mr. Geller said the lack of play space has been there from the start and is not a result of the severing of the proposal. He said the Select Board will have opportunity to apply conditions when the rest of the parcel comes in for a B3 zone permit.

Town Manager Tabakin read into the record correspondence from a DEP representative about the status of the site. She argued the entire 8 acres should be part of the planning discussion. She later said park areas, in good design, are visible from a public way. She argued against the high density. She suggested the ZBA seek advice through Mass. Housing Partnership in determining conditions and suggesting plan changes.

The chairman opened discussion to the audience, asking for only new information.

Nan Wile asked that an email she had sent to ZBA members be made part of the record.

Mia Conty said the town needs affordable housing, but not next to a wastewater treatment plant that may be emitting toxins.

Dennis Irvin suggested fee waivers might be enough to cover the cost of remediating the riverfront area.

Charles Bouteiller said the 40B guidelines say housing should be similar in size and scale to the neighborhood. Mr. Puciloski said such a guideline only prevails for projects seeking extensive waivers. Here five-story buildings are allowed in the zone. Mr. Bouteiller said there should be a place for children to play. Mr. Cohen said in the short term, they will find other nearby parks.

Seth Keyes said Memorial Field is nearby. He encouraged the neighborhood and the ZBA to embrace the project as very important for the community.

Jana Folmer said there should be no C of O until the entire site is remediated. Chairman Majdalany said it will be up to DEP. She said she is not comfortable with Saturday construction hours.

Jan Bouteiller asked whose story was right: DEP demanded capping, or CDC asked for capping. Mr. Geller later reiterated the DEP's refusal to consider further bio-remediation, and capping is the default method in Massachusetts for dealing with contaminated soil.

Mark Cohen objected to the affordable housing being near the wastewater treatment plant. Ms. Tabakin said it could cost \$50 million to put a dome over the plant.

Adrian Cohen said despite recent work, there are still smells and noise from the wwtp.

Sharon Gregory called the project ill-planned and suggested there is plenty of buildable land.

Ron Blumenthal said he wanted the project to live up to its potential, and the proposal could be much better.

Bobby Houston said the original traffic spiral has been retained even though the project has not been split into two parcels. He said 409 potential vehicle trips in 24 hours is not insignificant.

When public comment dwindled, Mr. Doneski suggested the board keep the hearing open, in case members wanted to hear further testimony.

Ms. Ivory said asked about screening between the housing and the wwtp. Mr. Geller said there will be a line of 25-foot conifer trees when landscaping is done. Ms. Ivory asked when they would be planted. Last thing after the building is finished, he said.

Ms. Meagher expressed concerns about brownfields and dioxins and capping. She wondered if more information should be sought from DEP. Mr. Geller said DEP sets the standards and enforces them. Ms. Tabakin said the standards should depend on what use is planned on the surface.

Beth Carlson from the audience suggested bioremediation and other processes should be explored. Regarding remediation, Mr. Puciloski said DEP has made it clear it is not open to alternatives.

Mr. Wise said he was concerned at the lack of clarity about the 5.8 acres of the site not in this proposal.

Mr. Wise moved to close the hearing, Ms. Ivory seconded and all voted in favor.

Mr. Doneski said he and Mr. Rembold will work on a draft decision and conditions, with some discussion with the applicant. He said ZBA members will have a copy before the next meeting.

Mr. Wise moved to accept this step, Ms. Ivory seconded and all voted in favor. Mr. Wise said his motion did not mean he agreed to all of the conditions discussed that evening. Ms. Tabakin asked about seeking Mass. Housing assistance. When the board didn't respond, Mr. Doneski said to the extent he, Ms. Tabakin or Mr. Rembold might consult outside sources, it would be not be considered a reason to reopen the hearing.

The board on a motion by Ms. Meagher, seconded by Ms. Ivory, moved to adjourn to Monday, Aug. 15, 7:30 p.m., Town Hall, to deliberate on the draft decision.

In other business, the board on a motion by Ms. Meagher, Mr. Hagberg seconded and the vote was unanimous to approve the minutes of the June 28, 2016, meeting.

The meeting adjourned at 10:30 p.m.

Respectfully submitted



Bernard A. Drew