Town of Norwell

BOARD OF APPEALS PUBLIC HEARING of January 2, 2013 Meeting Minutes

MEETING DATE:

January 2, 2013

TIME SCHEDULED:

7:30 P.M.

MEETING LOCATION: MEMBERS PRESENT:

Norwell Town Hall, Gym Lois S. Barbour, Chair

Ralph J. Rivkind

Patrick J. Haraden

OTHERS PRESENT:

R. W. Galvin, Town Counsel

Members of the Public

NOT PRESENT:

Philip Y. Brown
David Lee Turner
Michael K. Kiernan

Thomas P. Harrison

PROPONENT:

Jack Sullivan, Simon Hill LLC

Brian Murphy, Unicorn Realty

Warren F. Baker, Baker, Braverman & Barbadoro C. R. Agostino; Baker, Braverman & Barbadoro

PURPOSE:

Opening of Public Hearing on

Amended 40B Application

APPLICANT:

SIMON HILL LLC

PROPERTY LOCATION:

Off Prospect Street

Mrs. Barbour opened the public hearing at approximately 7:30 p.m. with reading of the public notice and two letters to the Board from Jack Sullivan, dated 11/19/12 and 12/20/12. She also mentioned the response letter of 12/6/12, confirming the Board's vote on 12/5/12, that proposed changes are substantial in all four areas in the DHCD regulations and requesting additional information contained in that letter, none of which had been received by that meeting.

The applicant and its attorneys then made a short presentation regarding the proposed changes and responded to Board questions. Much of the discussion centered on procedural matters, including jurisdictional issues, filing fee, outstanding escrow balance, and escrow deposit required for peer review. An exchange between Mr. Rivkind and Mr. Agostino ensued. Mr. Rivkind stated the Board will require specific information regarding any and all proposed changes to the previous application. During the discussion about project changes and supporting documentation requirements, Mr. Agostino claimed the applicant would not close on the upper portion of the parcel if the current litigation were not successful, despite his earlier claim of no change to the original Purchase & Sale agreement. Mr. Rivkind pointed out that would be a change and then asked the audience by show of hands to indicate if anyone had heard Mr. Agostino's statement about no change. About fifteen hands were raised. Mr. Baker was clearly disturbed by Mr. Agostino's assertion, which Mr. Baker subsequently denied.

A discussion of the Project Eligibility Letter followed with the applicant claiming in its letter to MassHousing that the amended project would not constitute a significant change over that previously proposed. After some debate, Mr. Baker provided the Board with a copy of Mr. Agostino's 12/21/12 letter to Mass Housing Finance Agency, which Mrs. Barbour read into the record—and for the benefit of approximately thirty members of the public present. Town Counsel indicated the Board of Selectmen might also wish to respond to MassHousing Finance Agency about the contents of the applicant's letter.

TOWN OF NORWELL

PATRICIA A. ANDERSON

Mr. Baker stated the following requested information would take approximately three weeks to compile and submit to the Board of Appeals:

- 1. Update waivers
- 2. List of project and plan changes, including a narrative

3. Purchase and Sales Agreement with certification that no changes have occurred since submission during the public hearing that ended with the 6/29/09 decision filed with the Norwell Town Clerk

- 4. Updated traffic and access impact study
- 5. Stormwater Management Plan with associated revisions in drainage calculations
- 6. Revised architectural plans
- 7. Copies of any associated permits issued for this location
- 8. Overlay plan showing various roadway proposals
- 9. Any response from Mass Housing to the 12/21/12 PEL letter from BBB
- 10. Escrow deposit in the amount of \$20,000
- 11. Although a filing fee of \$23,000 was mentioned (\$500 per unit over and above the 80 units previously filed, based on a difference of 46 units), the Board has left that matter open, subject to a good faith response to the Board's request for the \$11,085.40 arrearage owed the Town for which the Board will provide documentation.

The Board agreed to confirm in a letter to the applicant the requested documentation and include copies of back-up invoices for the amount owed to the Town, not disallowed by the HAC decision.

The Board indicated other Town boards and departments are eager to comment on any changes in the proposed project. However, additional copies of plans and information are required to meet the thirty (30) copies indicated in the Board's Rules. This request applies to the documentation already submitted and any future documentation.

The Board heard from two members of the audience. Mr. McGloin of 58 Prospect Street requested clarification of the parcel acreage of the proposed project. Ms. Molla of 88 Prospect Street corrected Mr. Sullivan's claim that no change in ownership of Simon Hill LLC has occurred. She stated she heard at the opening HAC public hearing in the Osborne Room on the applicant's appeal of the Board's original decision, that Mr. Sullivan in sworn testimony indicated William Murphy and he were 50/50 partners.

Mr. Sullivan later clarified the correct mailing address for Simon Hill LLC is 293R Washington Street, Norwell, MA, and not the Norwood address shown on the plans filed with his letter of 11/19/12. Later full-sized plan drawings submitted on 12/20/12 show the 293R Washington Street, Norwell, MA, address.

Neither Mr. Rivkind nor Mr. Haraden is available on January 23, 2013, the three-week timeframe Mr. Baker indicated was needed to provide requested information. Upon a motion duly made and seconded, members **VOTED** to continue the public hearing to Wednesday, January 30, 2013, at 7:30 P.M.

The meeting was adjourned at approximately 9:00 P.M.

These minutes have been approved with reading of the	minutes waived by unanimous vote of the Board of Appeals a
a meeting duly held on $\frac{1}{50}$	ordance with M.G.L. c. 40A, Section 11, and the
Massachusetts Open Meeting Law.	
Signed: Mhh M	Date: $(\sqrt{3}\sigma)$, $\sqrt{3}$
As Clerk/Assistant Clerk	

Copy filed with: Office of the Town Clerk

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FEB 0.4 2013

TOWN CLERK PATRICIA A. ANDERSON