

Town of Norwell
BOARD OF APPEALS
Business Meeting Minutes
November 2, 2022

TOWN OF NORWELL
TOWN CLERK

2022 NOV 16 PM 1:25

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MEETING DATE: Wednesday, November 2, 2022
TIME SCHEDULED: 6:30 P.M.
LOCATION: Norwell Public Library Meeting Room
MEMBERS PRESENT: Lois S. Barbour, Chair
Philip Y. Brown, Vice Chair
Ralph J. Rivkind, Clerk
Stephen H. Lynch
MEMBERS ABSENT: Daniel M. Senteno
William J. Lazzaro
Joseph E. LaFleur

On behalf of the ZBA: R. W. Galvin, Town Counsel
John C. Chessia, Peer Review Consultant

On behalf of 555 Cordwainer Drive: Adam Brodsky, Esq.
Bodo Liesenfeld, Owner
Todd Collins
Dan Linscott, General Contractor
Susan Spratt, P.E.; McKenzie Engineering

On behalf of Tiffany Hill 40B: Muhammad Itani, President; Stonebridge Homes, Inc.

CALL TO ORDER: The business meeting was called to order at approximately 6:30 P.M.

AGENDA: Upon a motion duly made and seconded, members present **VOTED** unanimously to accept the agenda as written.

MINUTES: No minutes were presented.

INVOICES: No invoices were presented.

DISCUSSION – 555 CORDWAINER DRIVE: Attorney Brodsky indicated that Anthemion Senior Lifestyles, LLC. requested to appear before the ZBA, as the memory care facility is completed, with staff hired, and a final permit needed from the State in order to open. However, the decision states that a Certificate of Occupancy (CO) cannot issue until the final As-Built plan has been reviewed and the ZBA has signed off. Project Engineer Spratt indicated that plan should be ready to file before the end of the week.

Chair Barbour clarified that as no as-built plan has been received for review, there would have been no possible way for the Board's consultant to have held up issuance of the CO, as she had heard from Town Hall. Mr. Chessia stated that an itemized list of any changes from the approved plans, including modifications would expedite his review.

Attorney Brodsky apologized on behalf of the project for any misunderstanding about the hold-up of the CO. He stated Building Commissioner Barry is ready to issue the CO, upon final approval of the Board. Changes were outlined by Engineer Spratt as minimal. Mr. Liesenfeld expressed

that the criticism did not come from the ownership. The opening of the facility was originally scheduled for April 2022. However, it is now over six months later with staff hired and the facility is ready to open, but awaiting the final permit from the Office of the Executive Secretary of Elder Affairs. The Owner must be able to present a permanent CO before that two-week process can commence for the requisite permit. New patients have already given notice and must be able to move into the facility.

Attorney Galvin indicated if the Owner is willing to provide a bond that could satisfy the Board's concerns that could be acceptable. Therefore, upon a motion duly made and seconded, Members Brown, Rivkind, and Barbour **VOTED** unanimously to approve a cash bond amount of \$100,000. as offered by the Owner in a form satisfactory to Town Counsel for release of the Certificate of Occupancy. The CO can be released once the check is received and the signed bond in a form approved by Town Counsel has been provided. The bond amount will be returned as soon as the As-Built plan has been reviewed and approved.

DISCUSSION – TIFFANY HILL 40B: Chair Barbour summarized discussions to date that have been ongoing for over a year. At the 9/27/21 meeting, Mr. Itani stated he had given some homeowners permission to make some changes that were not presented to the Board for modification approval. Mr. Chessia provided a brief update on the 10/25/22 site walk he had recently undertaken with Member Lynch. Items identified as still incomplete included:

- Silt socks which were still in place
- Silt bag at end of drainage pipe shown on the plan has not removed.
- Drainage basin in forebay needs repair with forebay in bioretention area needing to be cleaned.
- There is weepage on the slope.
- Some of basin does not have 75% coverage.
- Swale has been altered and made a mud hole.
- Ground is wet and water is high.
- Irrigation cover completely full where swale is supposed to divert to catch basin in front.

The Board's consultant stated that completing items will like take a day or so and perhaps the developer and consultant should walk the site together.

Member Lynch states about six items have been completed: Items 5, 14, 15, 16, 17, and 18. Cleaning of catch basins is no longer the developer's responsibility and has been turned over to the THCA. Not done or incomplete: Items 1, 2, 4, 6, 8, 10, 11, 12*, 13, and 20 (should be aluminum grate but is steel, which can fail due to rust). Items 3, 7, and 19 are partially completed or inconclusively resolved. Finally, Item 12 involves clearing beyond the approved limit of work that should be staked and mitigation determined for completion. One other item is not related to List of 20; specifically, control of the THCA that was handed over to the homeowners by the developer in the Spring 2021.

Although some homeowner activities were approved by the developer, others were undertaken by individual homeowners. Member Lynch wants the THCA to ensure all issues have gone through the THCA approval process regardless of final approvals of all changes made as a matter of record. Some tree clearing was not approved by the developer per Mr. Itani. Trustee Apjohn stated the Board had a productive meeting with the Developer about other trees within fall distance of homes due to storms. An independent tree company says machinery or oversaturation caused deterioration of trees.

Member Lynch wants the Developer to walk the site and inspect with Mr. Chessia. Chessia report will be shared with Developer. Mr. Itani said truckloads of silt sock were removed. Mr. Chessia indicated the project surveyor could stake the limit of work and items could be easily found.

The discussion should be wrapped up no later than 7:45, when the Library meeting room is no longer available.

Mr. Itani requested return of the cash bond with each of the twenty items itemized by value. Member Lynch suggested a partial return. Member Rivkind suggested that the Board defer until the next meeting in two weeks. Attorney Galvin indicated the purpose of a bond is to insure completion of specific items, but there is a difference in warranty issues relating to the homeowners. It appears the Developer is willing to continue working out issues. Is there another number that would make sense?

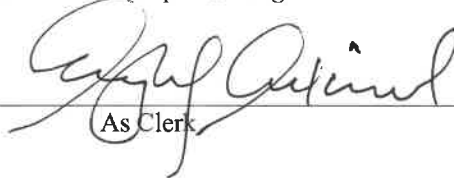
Mr. Apjohn says the homeowners are now out of their warranty period due to ongoing discussions with the Town. Attorney Galvin states many items of concern by the homeowners do not relate to the bond. Mr. Itani stated the bond was itemized and although Stonebridge is not the largest builder in the state, it does stand behind its product. Member Lynch stated that plant materials help with water flow and a plan needs to be agreed upon before any final disposition of the full bond payment can be made, but given the items that were in fact fully completed, a partial repayment was clearly warranted.

Therefore, upon a motion duly made and seconded, Members Brown, Rivkind, and Barbour **VOTED** unanimously to release \$100,000. of the currently held \$180,000. bond, relating to the List of 20.

ADJOURNMENT: Upon a motion duly made and seconded with all business items discussed, members present **VOTED** unanimously to adjourn the business meeting at approximately 7:45 P.M.

These minutes have been approved with reading of the minutes waived by unanimous vote of the Board of Appeals at a public meeting duly held on 11/15/22 in accordance with M.G.L. c40A, Section 11, and the Massachusetts Open Meeting Law.

Signed: _____


As Clerk

Date: _____

11/15/22

Next scheduled meeting: December 21, 2022

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