



**TOWN OF GEORGETOWN**  
**ZONING BOARD OF APPEALS**  
**Business Meeting Minutes**  
**November 3, 2009**  
7PM - Town Hall, 3rd floor Meeting Room

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**Board Members Present:**

Paul Shilhan, Chairman  
Mike Muller, regular member  
Matt Lewis, regular member  
Jeff Moore, regular member  
Paul Taraszuk, associate member, (*arrived 7:42*)

K. William Krikorian, – West St.  
Jean Paquin – West St.

**Absent:** Joseph Young, regular member, Scott McDonald, associate member

**Zoning Clerk:** Patty Pitari

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Chairman Shilhan called the business meeting to order at 7:04pm and stated the Board of Appeals will conduct this meeting according to rules laid out in Chapter 40A of the General Laws of the Commonwealth of Massachusetts, Roberts Rules of Order and its own particular set of rules, entitled Rules of Procedure, a copy of which is on file with the town clerk, another copy is available from the clerk at this meeting.

**New Business:**

The board reviewed and signed the business minutes of October 6, 2009.

**West Street Discussion**

Mr. K. William Krikorian is present for the West Street project. He submitted a letter dated October 26, 2009 requesting to amendment to the permit for the approved 40b Comprehensive Permit Decision by the board approved in 2002. Mr. Krikorian stated that situations came about that were uncontrollable, we would like to proceed with the project, and we feel the time is appropriate to start building, and a serious concern is the real estate market being in a slump, there are virtually no homes over 55 being sold. If we tried to market as over 55 subdivision, we feel that removing the age restriction is necessary, we consider this as a hardship we are confronted with.

Krikorian stated CHAPA "Citizens' Housing and Planning Association is basically the monitoring agent for these 40b, and monitor the lottery for people winning the affordable units, and make sure the affordable gets record with the registry, and make sure the project moves along. I contacted them and also by a lawyer that there was issues in the commonwealth that had similar situations that the age restriction was somewhat discriminatory. I received some documents today from them but they are not the corrected ones. They said a small 40b

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subdivision cannot be age restricted and my question was what is considered small, and the answer was they didn't have an answer, they would look into it, and what I am saying is that this project may not be applicable to be age restrictive for this particular subdivision by state statute, and another definite is that no more than 80% of the project would be the maximum for age restricted, so 20% of the units would be opened up to anyone, and handicapped family can come in and buy regardless of age or if they have kids or not, from what I understand, there are gray areas, there are issues that need to be addressed. You may want to talk to Counsel and maybe we can clarify these issues, and what we have today and do we have an issue and if so would be the board be receptive if in effect, the over 55 stands, it's a legal binding permit, would the board give us relief and open it up to anyone who wants to buy it, we would still have the 4 affordable units, it's just the market rate units would be available to anyone.

Board Questions:

J. Pingree stated you are locked into 32 bedrooms, and you would have 16 2 bedroom units as its written right now, how do find that to be more marketable for a family than say senior housing when your restricted to 2 bedroom houses really fit for senior housing, I am worried about septic impact more than anything. How do you see that as a being a positive thing for you to eliminate the over 55 with 2 bedrooms being the restriction on each of the units.

Krikorian stated, we are not trying to change that Jon, all we are saying if an opportunity comes along and a couple has a child/infant they are in their 30's instead of late 50's, we would like the opportunity to sell it to them, the 2 bedrooms per unit will stand, all we are saying is give us an opportunity to open up the project to more potential buyers.

Pingree stated he sees it as a substantial change, it changes the nature of the project, just for example the amount of septic, impact on schools possibly, if definitely opens up a new hearing. I don't think we can say this is unsubstantial, also we approved this in 2002, and it's now 2009, I understand the market conditions have changed, and those issues to why it has not started are your issues and not in our prevue, but in my opinion we would need to have a new hearing.

Krikorian stated he agreed with opening a new hearing, we want to go forward; I can get more definitive answers from CHAPA.

Pingree stated, I don't have answers right now either, you would have to prove your case pretty clearly, your stating some things they are saying, but I don't have any proof what CHAPA is saying, just because your saying, but that doesn't mean it's true, but we need proof, and we would like to have that reviewed, and I think it opens up the whole hearing, and that could be it opens up the whole decision, and I don't know what that will mean, the whole decision could be nullified, and do you want that to happen, I have to read up more on it, but if you open up a whole new 40b hearing it could open up a whole new different set of issues.

Krikorian stated we are only looking to change the age restriction, we have made a substantial investment in this project, a half a million to purchase it, and 1 million just on site cleanup, and everything we have done we have done here has been in good faith and properly. We have done everything above board with the cleanup.

Pingree asked do you have certificates stating that the cleanup is complete.

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Krikorian stated, it's about 99%, it's finished, we are just waiting for DEP to sign off on the final document, and from what I understand it's one document.

Pingree stated we have 30 days to open a new hearing.

M. Lewis asked if any abutters have received this letter before you came to us today.

Krikorian stated no, we felt it should just come to the ZBA.

M. Lewis asked if there is a time frame on when that house and bard that on the property comes down, because I see children going in around there.

Krikorian stated that is the next thing that will be done.

J. Moore asked was the over age 55 restriction was at the conception of the project.

Krikorian stated it was right from the start, this was a LIP program, a local initiative petition.

M. Muller stated I was not here at the time, I have mixed feelings about it, I appreciate the investment, but I would like to help, but with the time I have been on this board and what makes me most uncomfortable is when we are put in a position of second guessing the judgment from a previous board. As far as market conditions, but I agree with Jon Pingree that removing that one restriction really changes the whole project and would be a substantial change.

P. Shilhan stated he agreed it is substantial.

Krikorian stated he is representing his other partners in the project is we want to work with the ZBA, and being very candid, I agree with you, so let's move forward and have a hearing and see. We may find out at the public hearing, that this is a moot point.

Patty informed the board that in the decision condition #15 the Letter of Credit will expires on January 21, 2010 for the cleanup, and I spoke to Mr. Krikorian about it on the phone.

Krikorian stated the letter of credit was a guarantee to cover issues and liability during the cleanup process.

Patty stated and we reduced it from \$200,000 in 2005 to \$100,000 when 75% of cleanup was completed being the removal of junk cars etc...as stated in the decision.

Muller that will be relevant during the hearing.

**MOTION: J. Pingree, seconded by J. Moore that the applicant's being Georgetown West Realty Trust request to remove the restrictive covenant being (Age 55 & Over) on the original approved 40b Comprehensive Permit for an Age 55 and Over Cluster Development at 43-47 West St., Georgetown Ma. be deemed a Substantial Change pursuant to MGL 40B, 760 CMR 56.05 (11), (760 CMR 56.907(4) and is a material departure from the project proposal in the original comprehensive permit previously granted, and is of discernable consequence to any offsite party, and would warrant a new hearing.**



**Discussion:** P. Shilhan stated to Mr. Krikorian if we deem it substantial, this is opening up a new hearing within 30 days and we have to collect reasonable fees for the hearing.

Patty stated on the decision next to last page under “**Departures**” Any material departure from the Project Proposal approved by this decision shall require an amendment to this Comprehensive Permit to be acted upon through the same procedures as if for a new Comprehensive Permit, unless the Zoning Board of Appeals determines that the nature and location of the departure is of no discernible consequence to any off-site party including the Town as owner of abutting property.

**Roll Call Vote on the Motion deeming the request a Substantial change.**

**Vote: M. Lewis- Yes                      M. Muller – Yes                      J. Moore - Yes**  
**P. Shilhan – Yes                      J. Pingree - Yes**

**Motion carried. The board will open a new hearing within 30 days.**

Pingree stated as far as what we need for the hearing all those old impact reports will have to be re looked at. We don’t know what’s going to be required. We will probably need Town Counsel to see what we need to do in the next 30 days also.

P. Taraszuk arrived at 7:42pm.

Discussion on fees for West Street.

Muller stated we can’t tell now what it’s going to cost; our fee schedule doesn’t work like that. Shilhan let’s go with the Comprehensive Permit on the application of \$1,000. Krikorian stated he would be comfortable with that.

M. Muller went through our standard application items and gave the applicant a list of items needed, as far as the Plot plans - we have the old ones, those are not changing., Denial – not needed, proof of paid tax bill, abutter’s list, fee etc.....

Krikorian stated the tax bill is paid.

Pingree stated we can hire outside consultants if we need it. I think we will need to hire Counsel to review the legal language and review that we are going the right way.

P. Shilhan stated to the audience that we will hold the hearing on December 1, 2009 at 7:30 and they will be able to speak at the public hearing.

The board took a 5 minutes recess at 7:55pm. J. Pingree left business meeting at 8PM.

Business meeting was suspended at 8:01pm, to open 6 Mohawk Circle continued hearing.

Business meeting reconvened at 9:35pm.

*MP.L.*                      *PM*                      *AM*                      *JAP*

Shilhan stated he spoke to the building inspector, and he talked about the denial process and giving him more power for findings, but it was decided to go into it more at another time, also brief discussion on removing the wording "were applicable". It was decided to leave it in.

**Finance Report**

The clerk review the ZBA revolving and payroll account updates.

**Correspondence:**

1. CPTC Fall 2009 Course Schedule
2. Letter from Town Clerk re: Conflict of Interest - Patty passed out a packet from the town Clerk and stated all board members must complete online, print a confirmation at end of session, sign the form included in the packet and return to the Town Clerk by December 28, 2009.

**Old Business:**

Patty Distributed the stamped new copy of the Rules of Procedure amended at the last business meeting.

**Motion:** P. Taraszuk to adjourn the business meeting, second by M. Lewis at 9:56pm. All in favor. Motion carried.

*Respectfully Submitted*  
*Patty Pitari, ZBA Administrative Assistant*  
*Georgetown Zoning Board of Appeals*

Date Approved: 12-1-09

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