



AUGUST 5, 2019 ZBA MEETING MINUTES

A meeting of the Peabody Zoning Board of Appeals was held on Monday, August 5, 2019 at 7:00 p.m. in the Wiggin Auditorium, City Hall, 24 Lowell Street, Peabody, MA.

MEMBERS PRESENT	MEMBERS ABSENT
Frances Bisazza-Gallugi, Chairperson	
Stephen Zolotas, Vice-Chairperson	
Julie Picardi	
Dan Sencabaugh	
Barry Osborne	
	Mike Garabedian (A)
	Ed Colbert (A)

NEXT MEETING, MONDAY, AUGUST 26, 2019.

REGULAR MEETING

1. Continued application of **JAM 3, LLC**, for a **Chapter 40B Comprehensive Permit Application** as it applies to the premise known as **55 Newburyport Turnpike, Peabody, MA, Map 078, Lot 016**. Petitioner seeks to subdivide the lot and construct 60 rental units. The property is located in a **DDD Zoning District**.

Ms. Gallugi: Good evening everybody. We are here tonight to hear the continued application of 55 Newbury Street, Newburyport Turnpike and yeah okay go ahead.

Attorney Silman: Good evening Madam Chair, members of the board. Ruth Silman, Nixon Peabody on behalf of the applicant. When we were here last week there were a couple of open items based on comments from town departments, excuse me, from city departments and we submitted a letter today to address each one of those concerns. We also did submit, on Friday the missing Exhibit 9, the Purchase and Sale Agreement between JAM Enterprises and JAM 3, LLC and again our apologies for that being delayed in getting to you. There have been some additional comments that we received today from the Building Commissioner, Planning Board, Fire Department and Community Development. I'm happy but they seem to be kind of in line with typical comments for development of this sort. The one thing I did just want to clarify is that the Zoning Board has an unusual ability in a Chapter 40B proceeding, and that is that you guys can actually endorse the approval not required plan. There are case law that says you can do so and the subdivision plan that we submitted to you has the endorsement box for the Zoning

Board as opposed to the Planning Board. You sit in the place of the Planning Board as the comprehensive permit authority under Chapter 40B, so that would just obviate then we don't need to go to the Planning Board for a separate endorsement on the subdivision plan provided. Of course, that the, this Board grants the approval and allows the development to proceed. So, we're happy to address any of the other specific comments. We have left three or four messages for the School Department for the Superintendent and the Transportation Department. They are understandably and very appreciably on vacation, we hope, until things ramp up for school and but we do have some thoughts about where we could work with them to add a school bus stop for safety, for any children and students who would be attending and other than that, again, happy to address any specific questions and the Project Engineer, Project Architect and Greg Monastiero are all here.

(Discussion ensued)

Ms. Gallugi: Okay, so in doing our due diligence, I spoke with Curt Bellavance today, the Community Development Director. He has asked me to ask you if you are agreeable “to Community Development and also the DPW Department” are requesting a third-party review and do you agree to that?

Attorney Silman: Yes. We did, I actually spoke to Mr. Bellavance we talked about a third-party review for water and sewer so it's not the scope of what

Ms. Gallugi: Basically. So, what would happen now is as long as you're agreeable to that, if you have Curt's information if not Carla....

Attorney Silman: We do. He's been very helpful through this process.

Ms. Gallugi: So then, he would like you to get in touch with him tomorrow and he's going to be more specific in what he wants in this third-party review. Okay? At the end of that ordering that the Building Inspector will also chime in on, but I don't think that's going to happen until all of this is done and approved.

Attorney Silman: So, we spoke about the Building Commissioners request that between approval and review of building permit plans, which is a whole other set, that much more detailed set of construction drawings, that there would be the and this is a requisite review under the State Building Code, that there would be a third-party review for structural and other things. So, of course we absolutely agree to that.

Ms. Gallugi: Okay. So, what I'm looking at is coming back one more time hopefully, one more time August 26. You can do that?

(Discussion ensued)

Attorney Silman: That's fine.

Stephen Zolotas: I'll make a motion to keep the Public Meeting open and continue to August 26th for another special meeting.

Dan Sencabaugh: Second the Motion.

Ms. Gallugi: All in favor. Any opposed. (5-0)

2. Adoption of amended rules of the Zoning Board of Appeals.

Ms. Gallugi: Thank you. Number two on the agenda this evening is a motion to amend the rules of the Board of Appeals of the Zoning Ordinance City of Peabody Massachusetts. We have a motion this evening to amend the rules of the Board of Appeals of the Zoning Ordinance City of Peabody Massachusetts dated January 15, 1985 by adding the following. The following rules are adopted in accordance with Massachusetts General Laws chapter 40 B, the provisions of Chapter 40 B handbook for the Zoning Board of Appeals dated March 2017 published by the Massachusetts Housing Partnership in cooperation with the Massachusetts Department of Housing and Community Development Mass housing and Mass development as contained in pages 15 to 29. A copy of which is annexed here to I here - for incorporated by reference to these rules. I need a motion to adopt.

Stephen Zolotas: Motion to adopt.

Dan Sencabaugh: Second.

Ms. Gallugi: All in favor. Any opposed. (5-0)

3. Application of **40 Oak Street Development, LLC**, for a **Chapter 40B Comprehensive Permit Application** as it applies to the premise known as **40 Oak Street, Peabody, MA, Map 095, Lot 089X**. Petitioner seeks to construct 80 rental units. The property is located in an **R4 Zoning District**.

Ms. Gallugi: We are here tonight to hear the application for a 40 B application for 40 Oak Street Development LLC and it is a chapter 40B Comprehensive Permit Application. The Mayor, the City Solicitor, my Clerk and myself have worked diligently, long hours in developing an Agenda for tonight which would include scheduling of departments, neighbors - all interested parties. Any issues that were to be discussed and a result of this pre hearing preparation we were notified through council that the applicant would like to have a continuance of hearing and an extension of the deadline. There is a letter written here by Mr. Smolak and if you please come up to the podium and read it to everybody in attendance today, that would be greatly appreciated.

Attorney Smolak: John Smolak, attorney for the applicant. With me this evening are Michael Larkin and Patrick Larkin principals of the applicant. Madam Chair what we had submitted to the Board today was based on a discussion that we had had with the City Solicitor with respect to a proposed continuance for a period of 60 days as he would indicate it and then be happy to read the substance of the letter into the record states it's a letter addressed to you, as and as well as to the City Solicitor, states....

(Attorney Smolak read letter to be made part of these minutes)

Ms. Gallugi: So, for those of you the audience, the Board is ready to grant a continuance of the hearing and an extension of the deadline. So, I need a motion for that and then I'll explain

Stephen Zolotas: Motion to continue for 60 days and extend the deadline for 60 days.

Dan Sencabaugh: Second.

Ms. Gallugi: All in favor. Any opposed. (5-0)

Ms. Gallugi: So, what was going to be heard tonight is continued. I am very sorry that you came out tonight. It is very nice that I see support, but this is now continued until further notice.

Attorney Smolak: Madam Chair if I may add somethingin terms of the continuance for a 60-day period, we would like it to be at a time and date and place certain. So, I guess my question is when would the Board Meeting be in October? Because I think we should probably continue it to a certain date and place.

(Discussion ensued)

Stephen Zolotas: I'll amend the previous motion by saying that we will continue this until October 21 of 2019 for our meeting that night and then we will grant the 60-day extension on the back end of the project, the application.

Attorney Smolak: So, if I heard correctly, it's not extending it for 60 days but till October 21st. Which is fine and it would be in this auditorium at 7 o'clock. Okay.

Ms. Gallugi: (nodding yes)

Dan Sencabaugh: Second the motion.

Ms. Gallugi: As far as this goes, right now, if you want to come back in October, we'll see you in October.

Stephen Zolotas: Motion to close.

Dan Sencabaugh: Second.

Stephen Zolotas: Motion to adjourn.

Dan Sencabaugh: Second.