



**LANCASTER SELECT BOARD
Special Meeting Minutes
of May 23, 2022**

I. CALL TO ORDER

Chairman Jason Allison called the Special Meeting of the Select Board to Order at 6:00 P.M. in the Nashaway Meeting Room located on the second floor in the Prescott Building, 701 Main Street, Lancaster, MA 01523

This meeting was also held virtually via ZOOM™.

Join Zoom Meeting

<https://us02web.zoom.us/j/86330585576>

Meeting ID: 863 3058 5576

Roll call taken, Jason A. Allison, present, Stephen J. Kerrigan, present, and Alexandra W. Turner, present. Mr. Allison advised that the meeting was being recorded.

Mr. Kerrigan moved to address Item VII, Number 1, out of order. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Ms. Turner moved to go into Executive Session pursuant to Open Meeting Law Ch. 30A, Section 21 (a) to discuss the discipline or dismissal of, or complaints against the Town Clerk Lisa Johnson, and to reconvene in Open Session thereafter (Roll Call Vote). Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

The Board went into Executive Session at 6:06pm, reconvening in Open Session at 6:46pm.

II. APPROVAL OF MEETING MINUTES - NONE

III. SCHEDULED APPEARANCES & PUBLIC HEARINGS - NONE

IV. BOARD, COMMITTEE AND DEPARTMENT REPORTS - NONE

V. PUBLIC COMMENT PERIOD

Opportunity for the public to address their concerns, make comment and offer suggestions on operations or programs, except personnel matters. Complaints or criticism directed at staff, volunteers, or other officials shall not be permitted.

Mr. Allison explained that the Board would try something different for Public Comments, with a limit of four minutes per comment rather than three minutes. At one minute there will no longer be a buzzer but the Chair will make a verbal comment, and comments will be ended at four minutes.

Chair Allison recognized Greg Jackson, 40 Farnsworth Way.

Mr. Jackson stated that he has comments and concerns about the 40B application in North Lancaster, saying "I would like to note that we're at the start of the process, the applicant is just applied for project eligibility. As far as I know, they have not received any approval at this point from the subsidizing agency, which I believe is MassHousing. We're in a 30 day comment period. From what I've seen from other examples in recent years, effective leadership from the town can reduce the financial, environmental, traffic and other impacts on the town and local neighborhoods of 40B project, There are examples where strong community response has made a big difference. The Town does not have to accept this proposal as it is presented in its current form. The application submitted was for 200 units; it represents a large 40B project for a town with a housing inventory, the size of Lancaster. As a result it's impacts are considerable and should be carefully reviewed and mitigated during the comprehensive permit process through reasonable and appropriate conditions. For example, reducing the height of the buildings to comply with town zoning would reduce (?) relative to nearby neighborhoods. Inclusion of rental units in the proposal could improve the production of affordable housing units for the town. A comprehensive permit process could take 12-18 months to complete if the applicant follows through with this proposal. During The Board of Appeals hearing the project could be reduced in size due to local concerns such as mitigation of impacts or adherence to state and local rules and regulations. We've seen this before with the proposal on Sterling Road. The Town could not arbitrarily or unreasonably constrain the project, but the applicant would have to demonstrate any financial burdens beyond what was allowed for a 40B project. I'd also like to note that technical assistance is available to the Board of Appeals through the Comprehensive Permit Process, and I would encourage the Town to seek and utilize all assistance and peer review support that is possible. In some ways, looking at the site, I would say, the situation of the 200 unit project is not a bad starting point from a future resident's point of view. This neighborhood is isolated from the adjacent industrial and commercial buildings. It would not have business or commuter traffic flowing through it. The proposed project has lots of open space and recreational opportunities nearby, including amenities on site. The development does not appear to encroach into any nearby wetlands buffers. In those regards it appears to provide a nicer neighborhood setting than the proposal 40R district on the other end of that area. ... It would not be as dense or congested or noisy. The density of the proposed 40B is just under nine units per acre, whereas the 40R district must have a minimum of 20 units per acre. A potential problem with this proposal is what's not being presented or explained by the applicant. That is what development will occur on adjacent lands to the immediate east or west of this location. Any attempt to circumvent 40B guidelines through segmentation of the project or space and time would likely not be looked upon favorably by DHCD. It should be noted that the 200 housing units would consume a third to a half of the water available to this developer, as well as almost half of their planned sewer capacity. Limitations on available water and sewer would determine what was available for the rest of the

larger parcel. Thank you for the opportunity to comment. Greg Jackson, commenting as a resident Thank you.

Chair Allison recognized Rob Zidek, 103 Kaleva Road.

Mr. Zidek said, "... We don't look in the past with regret nor in the future fear, but around awareness. And something I'm kind of wondering if there's not some form of zone chicken going on here, I couldn't think of a better name. I suspect that all parties have looked back at how this whole deal started. Look now at where we are, and have come to the same conclusion. It's very likely not going to work, but who wants to raise your hand and say that? We've seen what people who make wise courageous decisions have to face when that decision displeases the loud vicious minority. So why won't the straight residential to industrial change work? It actually became evident last year to me, the petitioner reading a letter that was able to sway the voters not to vote on this article, presumably, out of fear that it would not get the two thirds majority. Five days before that, the Lancaster Affordable Housing Trust Chair and Economic Development Committee Chair circulated emails to encourage their committee members, and anyone else receiving that email chain, to first try send it back to the Planning Board for negative action, which ended up working, but if that did not work and the article came to question, I believe the term is, to definitely vote no on the rezoning article, that same article that potentially will come up 15 months later. And there is our Select Board Chair, perhaps the most fervent proponent of this rezoning, telling us all that it would be a bad deal for Lancaster unless there was a an affordable housing project ... located with 2.4 million square feet of warehouses with trucks, employees, vehicles, school buses, pedestrians, motorcycles, bicycles, baby strollers, students, joggers and dogs, hopefully leashed, all sharing McGovern Boulevard and the heavily trafficked Lunenburg Road, every time they want in or out. But that's where the logic falls apart because, with all that housing, we have some really serious, undeniable, I believe unbeatable, Environmental Justice concerns either one, the 40B or the 40R. The 40B, as Mr. Jackson so well said no, it does not have trucks going through their neighborhood, but they have to go through the truck neighborhood, so you know one has it one way, the other has it the other way, they're both bad. I guess what I'm asking is for the Town Administrator, the Select Board, or all the other boards to consider all options at this point, and especially the opportunity options. We have two new members here tonight, we have when we have DCAMM, which I still believe is the mother lode, and then we can make good revenue off the buy rights and IPOD situations out there in North Lancaster. So I ask you to consider it, this is a great time to do it. These affordable housing projects are great, they're fantastic, I'm a big time affordable housing proponent. But not there with the warehouses. Thank you very much, and I hope this format works for all of us."

Mr. Allison recognized Cara Sanford, 350 Bull Hill Road.

Ms. Sanford stated that "the 40B is on 22 of the 37 acres we conveyed to the Capital Group in the 2017 land settlement, for I think around \$7,600 an acre at auction. My understanding is that residents' public comment questions have been given to the Capital Group minus the identifying name, so that the developer can respond to them with answers, and, lastly, that the Capital Group refers to public transportation being available to the 40B residents at the nearby Logistics Center. If the Affordable Housing Trust has the opportunity sometime this evening to address my

question, has MART committed to a bus stop at the Logistics Complex if the 40R doesn't go through? Thank you.”

Ms. Young-Jones stated, “This isn't exactly specific to the 40B, but it could be, and it takes into account what Rob was just talking about I really think that in order for both Lancaster and the developer, to be successful. We need a connection to route 190 that's, the only way a warehouse facility will work along with a residential neighborhood. So that's what I'm thinking that they should focus on and spend their energy on. Thank you.”

Mr. Allison recognized Ann Ogilvie , 4 Turner Lane.

Ms. Ogilvie said, “I'm making a public comment tonight as a resident of Lancaster in response to the recent 40B application submitted by Capital Group Properties. The recent 200 unit 40B application by Capital Group Properties would not be possible without their having received a landlocked parcel in the center of their property, in the 2017 land settlement agreement with the Town of Lancaster. This settlement agreement remains unfulfilled, with these developers still having not transferred the 86 acres of conservation land to the town, despite assurances by their own counsel, in a recent public meeting, that they are ready, willing and able to do so. We have heard multiple explanations from Capital Group representatives at public meetings about why they did not transfer the land ranging from the town just wouldn't take it and we don't know why to one of the KP Law lawyers just never got back to us and beyond. We also now know that a mortgage on the 86 acres in question is the subject of a current breach of contract lawsuit. As the town responds to the 40B proposal, I urge the Select Board and the Town Administrator to seek a full understanding of exactly why the 86 acres was never transferred to the Town and to inform residents about the details of this failed legal agreement. This contract failure is directly related to the 40B proposal, as the proposal concerns land that the applicants were permitted to purchase as a result of that agreement. And also, as the developers are the same ones that have still not transferred the land to the town. Chairman Allison has said in two separate public meetings that he would pursue a legal case against these developers if the rezoning proposal before the town fails. But why should residents have to wait until that point to learn the truth about what happened? As multiple new agreements are negotiated with these partners, it is essential for Lancaster to understand the reasons behind the previous performance failure. Another point of concern with regard to this proposed 40B, is the question of the water agreements with the City of Leominster and whether the City of Leominster, who appears to have a say in each development proposal, will allow the water to be used for extensive residential development such as this 200 unit 40B, or the 509 40R units simultaneously proposed by this developer. In a March 15, 2021, Leominster City Council meeting, Roger Brooks of the Leominster DPW confirmed to the Council, after reviewing the proposal, that the water agreement proposal was for commercial retail space only and just a few houses over the Leominster-Lancaster line. Leominster City Councilor Susan Chalifoux Zephir asked if housing was excluded and was told by Mr. Brooks that there may be one small subdivision right at the Johnny Appleseed line. He said, this is not condos, it is single family properties. It seems prudent for the town of Lancaster to confirm with the City of Leominster whether a large scale residential developments such as either the 40B or the 40R currently proposed would be projects that Leominster would approve the water utility for, and given that so many future residents will depend on this drinking water, that the developers are prepared to appropriately manage through

routine and emergency maintenance and repairs, that they are responsible for, according to the agreements. As many other residents have pointed out, there seem to be many flaws and inaccuracies within this 40B application. It is my fervent hope that the Town of Lancaster and our Select Board will address these thoroughly in your response, to ensure the best possible process and outcome for Lancaster regarding this proposal. Thank you very much."

VI. TOWN ADMINISTRATOR REPORT - NONE

VII. ADMINISTRATION, BUDGET, AND POLICY

- 1. Move to go into Executive Session pursuant to Open Meeting Law Ch. 30A, Section 21 (a) to discuss the discipline or dismissal of, or complaints against the Town Clerk Lisa Johnson, and to reconvene in Open Session thereafter (Roll Call Vote).**

(Taken out of order earlier in meeting.)

- 2. To go over Town's response to the Capital Group's Comprehensive Permit Site Approval which was filed with the Massachusetts Housing Finance Agency (MassHousing).**

Ms. Hodges, Town Administrator, explained that she submitted a synopsis to the Board last week, on Thursday. It was posted online and essentially gives a synopsis split up into various fields, so the first were for private citizens and the second for town boards and committees. She included most of the comments, unless they were nonfactual based, so if they were based on opinion of Capital Group or any one of their staff members, or any staff member of Town they were left out because they weren't particularly sensitive to the application.

She explained that she plans on sending this to MassHousing by registered mail, overnight delivery, on Thursday to meet the 30 day window.

Ms. Turner noted that under the boards' feedback section that the Planning Board is especially important and wanted to make sure that comments resulting from tonight's Planning Board meeting could be incorporated into the document. Ms. Hodges concurred that these comments could be included. Ms. Turner thinks that it would be helpful to include as much information as possible about the environmental impact that the 40B project could have on the area. Ms. Hodges will double check to see if she has received any additional information from the Conservation Commission. Ms. Turner also expressed concern that she does not see feedback from Public Safety and wondered if that would be more apt to happen later in the process. Ms. Hodges agreed that Public Safety input would be more likely during the ZBA Hearing phase. Ms. Turner noted that some of the concerns, especially legal issues and Environmental Justice would be raised during the MEPA permitting.

Ms. Turner asked if there was time to investigate water concerns that have been raised prior to finalizing the letter; Ms. Hodges said that she has done some preliminary investigation on this topic and that the water agreement seems to be complete and well done, so that it does not appear to be an exposure for Lancaster.

Mr. Kerrigan agreed that he would like to see Conservation Commission comments included in the compilation.

Mr. Allison thanked Ms. Hodges for her work on this letter. He is concerned that many of the comments received seem to be procedural. He asked how many different people submitted comments. Ms. Hodges said that she believes she received 38 emails, with some emails from a citizen plus spouse. Mr. Allison, speaking to residents, said that if people really believe that the 40B project in question is wrong for Lancaster, they need to self-organize and make themselves heard, because this is not many people.

Mr. Kerrigan asked if Ms. Hodges needed anything procedurally from the Board or if she was good to go. Ms. Hodges expressed concern that she was hoping to have more definitive answers from citizens or committees as to whether or not they were supportive in theory of the 40B project, although she agreed that there will be many more opportunities for dialogue on this issue.

Ms. Turner stated that the Board has not debated this issue until now, stating that while she is very much in favor of affordable housing, she does not think this is a great project at the right place for right now. She is concerned that affordable housing not be next to a large industrial project and thinks there may be a better location, DCAMM for example, or working with the developers of AUC. She said that she has grave concerns, and that she did not mention them before because she thought that at this stage we were just talking about safety and environmental and health issues and so on. She stated that it does check the need for affordable housing but that it also reduces the potential industrial tax base, and we are developing an area that is not fair to put people in, in her opinion.

Mr. Kerrigan cautioned against using DCAMM or AUC as a “silver bullet.” He thinks that both of these sites may be wonderful later on, but that right now the topic needs to be the proposed 40B and 40R, and the DCAMM or AUC sites are down a long road.

Mr. Allison stated that, contrary to popular belief, he is in favor of putting options before the Town, and that his objective is to allow people to vote on opportunities in North Lancaster. He thinks that there are better deals than the 40B, and he encourages people to make their voices heard. He expressed disappointment that the Planning Board has not yet offered an opinion or a plan. Discussion was held about how Board members could speak as individuals without implying that they were speaking for the Board. Ms. Turner, after this meeting adjourns, will attend the Planning Board meeting. If the Planning Board has comments or opinions regarding the 40B, Ms. Hodges will attach to the letter from the Select Board to MassHousing as an addendum and she has done with comments from other boards. Boards and committees should have their input to Ms. Hodges by Thursday at noon.

The Board engaged in discussion about the 40B versus the 40R. Ms. Turner recalls a public hearing relative to the 40R and would like to ask questions at an upcoming meeting.

After discussion, Ms. Hodges asked the Board if it was accurate to summarize opinions on the 40B project by saying that while no one is dismissing the 40B project out of hand, it would

not be the most advantageous project for the community at this time. All members of the Board agreed that this is accurate.

VIII. APPOINTMENTS AND RESIGNATIONS - NONE

IX. LICENSES AND PERMITS

- Special (One Day) Liquor License for Wine & Malt for Sterling Street Brewery
For the FC Stars Event to be held at the FC Stars Complex, 70 McGovern Boulevard on Thursday, May 26, 2022, from 4pm-9pm

Ms. Turner moved to approve a Special One Day Liquor License for Wine & Malt for the Sterling Street Brewery for the FC Stars Event to be held at the FC Stars Complex, 70 McGovern Boulevard, on Thursday, May 26, 2022, from 4pm-9pm. Mr. Kerrigan seconded. Ms. Turner noted that the usual public safety paperwork was not attached to the application. Mr. Allison recognized Chief Moody and asked if he had had a chance to review this application. Chief Moody replied that his recommendation was to approve the license with a 4-hour police detail. He noted that the organizers of the event expect from 700-1000 participants, so he would like an officer there just to be cautious. Ms. Turner amended the motion to include one detail officer from 5:00-9:00pm as recommended by Chief Moody. Mr. Kerrigan seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

X. OTHER/UNFINISHED BUSINESS

XI. NEW BUSINESS

**This item is included to acknowledge that there may be matters not reasonable anticipated by the Chair.*

XII. COMMUNICATIONS

- Town Offices will be closed on Monday, May 30, 2022, in observance of Memorial Day.

XIII. ADJOURNMENT

Mr. Kerrigan moved to adjourn the meeting. Ms. Turner seconded. *Vote taken, Jason A. Allison, Aye; Stephen J. Kerrigan, Aye; Alexandra W. Turner, Aye. [3-0-0].*

Respectfully submitted

Kathleen Rocco
Executive Assistant

APPROVED

Alexandra W. Turner, Clerk
Approved and accepted: June 6, 2022