

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,  
MARSHFIELD TOWN HALL FEBRUARY 1, 2017 7:00 P.M.  
MEETING MINUTES**

*Members Present:*

*Joseph Kelleher, Chairman  
Mark Ford  
Francis Hubbard  
Brian Murphy, Associate  
Richard Murphy, Associate*

*Also Present:*

*Jerry O'Neill, Bldg. Commissioner  
& Code Enforcement Officer  
Atty. Robert Galvin, Town Counsel  
Greg Guimond, Town Planner*

Mr. Kelleher called the meeting to order and announced that the meeting was being recorded on MCTV. He stated that he would be the hearing officer and the other members are identified by their nameplates.

**#16-50: Peter Armstrong, Matlin, LLC: PEER REVIEW/COMMENTS FROM  
TOWN DEPARTMENTS**

The Petitioner is seeking a Comprehensive Permit, in accordance with M.G.L. Chapter 40B, for the construction of nineteen (19) duplex buildings, two (2) single family homes and one (1) commercial/office building; this development will consist of twenty-eight (28) one-bedroom units, eight (8) two-bedroom units, and four (4) three-bedroom units, which will total 40 units in all, 10 of which will be considered affordable according to the Boston Metropolitan Statistical Area Index, as determined by HUD, on the property located Ferry Street Rear, which is identified on the Assessors' Maps as G12-29-02 and is located in an R-1 zoning district and the Water Resource Protection District. A copy of the application and the plans may be viewed at the Board of Appeals office in Town Hall.

Mr. Kelleher said they would be discussing the Comprehensive Permit for Matlin, LLC. They have received a new package with new drawings and fewer homes. Mr. Darren Grady spoke for the applicant and spoke about testing the groundwater as a result of a concern. They raised the elevation in one place from 66 to 74. This is basically the same design; it's now 355,000 yards and it was 400,000 yards. The previous plan had forty (40) units and now has twenty (20) – sixteen (16) two (2) bedroom and four (4) three (3) bedroom. Mr. Kelleher stated the earth removal went from 425,000 to 355,000 and asked if they fell under any exception with regard to the Bylaw. Mr. Grady and Mr. Armstrong said that was up to the interpretation; in some areas they do and in other areas they don't. Mr. Kelleher asked if 355,000 was needed for this area and Mr. Grady said yes. Mr. Kelleher asked how much would need to be removed excluding the settlement agreement and Mr. Grady said it has to be 355,000 and he talked about stabilizing the slopes.

Mr. Grady said Phase 1 would be the temporary roadway and the cul de sac; there won't be any back up beepers on the trucks to decrease noise. They are only excavating the slopes in Phase 1; they will stabilize them in Phase 2 in that area as well as the five (5) acre parcel. Mr. Armstrong said the material there is very coarse; there's been a slope for fifty (50) years and he never heard a neighbor complain about dirt. Mr. Kelleher asked if there would be two (2) phases and Mr.

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Grady said there would be four (4) and he pointed out the other two (2) areas on the plans. There was a discussion with Mr. Kelleher, Mr. Ford and Mr. Lopes about how long Phase 1 and 2 would take; it would depend on the number of trucks per day and if they would do it five (5) days a week.

Mr. Pesce said he didn't put this in his notes but he believes they gave a range and the range he is approximately six (6) months. He asked if it was forty (40) trucks a day, would it be six (6) months or twelve (12) months? Mr. Grady said they could give them that in revised plans. There was additional discussion about the number of trucks and length of time. Mr. Pesce said if they can only do 1,000 a day they could put it in a very large truck. He would say five (5) trucks an hour would be unrealistic. Mr. Ford asked what would be unrealistic and Mr. Pesce replied five (5) trucks per hour; Mr. Armstrong said that was the maximum. Mr. Pesce asked how many yards were in a tractor trailer; Mr. Lopes said about twenty-five (25) and Mr. Pesce said that was reasonable to say. The discussion continued about the phases and Mr. Ford asked if the three (3) years answered the 1,000 per day. Mr. Lopes said some days it would be 1,000 and some days a little less; Mr. Pesce said even if they did the 1,000 it doesn't equate. Mr. Pesce asked where the lower number and the higher number came from; Mr. Armstrong said it was a range. Mr. B. Murphy asked if this could be done in six (6) to seven (7) months; Mr. Lopes said they have other work going on as well. Several members said they understood that.

Mr. Grady said they dug two (2) test bits, went down about twenty-one feet (21') and did not find water. Mr. Grady talked about a drought, the highest groundwater and Frimpter adjustments and came up with an elevation of 51.04. Mr. Ford asked Mr. Grady to explain the Frimpter calculations and he did so. Mr. Pesce said it's not an equation; it's a U.S. geological survey method in areas other than Cape Cod which has its own. It's a way to look at the nearest indicator well and look at the month you are interested in; groundwater rises and falls. This attempts to model that; it's not perfect but it's a decent, accepted method. He can see where they get the well data; it's not an easy thing to explain at a public meeting; you find the adjustment and add it to your observations. Mr. Pesce thinks this is the most conservative and offers more protection and complies.

Mr. Kelleher asked if the waivers had changed between the application and the new plan; Mr. Grady said one changed and they added a waiver. Mr. Kelleher said he read them and asked Mr. Grady to walk the Board through them. Mr. Grady then read through each of the waivers. Mr. Kelleher said he was interested in the one that was added; Mr. Grady read the Planning Board rules and regulations. Mr. Kelleher asked if anyone had any questions and asked Mr. Pesce to walk them through this. Mr. Pesce said he had a chance to look through all of the documents that were submitted and he discussed what he reviewed. Mr. Pesce said he would recommend that the approval of the Comprehensive Permit include a holder of the Conservation Restriction, some other entity that Natural Heritage would accept. It should be executed within six (6) months and the Board should have the name before it has been done. Mr. Hubbard asked if it should be before or after the Comprehensive Permit was executed. Mr. Pesce said after; they aren't required to do it until after; they get the permit from the ZBA and then go off for the other things. Mr. Armstrong said he has a draft done; the person doing interviews four (4) days ago



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left on maternity leave; he said the Board would get the draft.

Mr. Pesce talked about the Eversource easement and said the next item was about earth removal. He said some items have been addressed but some need more work (A, B, C, D, I, K and other items on page 5). Mr. Pesce said they need to see their calculation which is a condition of the settlement agreement (7,000 cubic yard limit) and the need to cut and fill. He said they met with the Police and Fire Departments but there is nothing documenting that; Mr. Armstrong said he thought they said they wanted to do it on the website; Mr. Pesce said the onus was still on Mr. Armstrong. There was then a discussion about the drive aisle, landscaping plans and it was noted that there were not trees around the building. There was additional discussion about slopes, phasing and restoration work. Mr. Pesce said next would be the construction phasing plan and he said it needs to be added to the plan site in full size. He then went through the items/pages and talked about berms and trees; Mr. Grady said he put trees in front of the berm.

Mr. Kelleher said he needs to have a sense of what is going across town; Mr. Armstrong said he is going to work on that and he knows it is critical. There was a discussion about road repair and required signage.

Mr. Pesce said that earth work calculations were not provided; the 425,000 should say 355,000; he asked what kind of fluff factor was used. Mr. Ford asked what a typical plan for road repairs looked like and asked what is normally in there. Mr. Pesce said he would consult with Mr. Galvin; it can be a monetary donation or something proactive. He said they are required to show the truck route. Mr. Pesce asked Mr. Galvin what kind of mitigation there should be for road repair; Mr. Galvin said the 40B on Careswell Street has some mitigation, the one with Marshfield and Duxbury. Mr. Ford said he was looking to maximize the out trucks. Mr. Galvin said when he looked at it years ago the maximum was forty (40) 10-wheelers; the upside was the 10-wheelers were less intrusive but they don't carry as much as 18-wheelers. Mr. Ford asked if that was a Bylaw and Mr. Galvin said it was Board of Selectmen. Mr. Galvin said the earth removal is technically off site; some isn't going very far but it's all off site. Mr. Kelleher said he would like to have a hearing on February 13<sup>th</sup>.

Mr. Kelleher asked why there were no plantings around the houses; Mr. Armstrong said he doesn't want them; Mr. Kelleher asked why. Mr. Armstrong said there are bushes and you always hear about branches falling with trees. He said one of the worst problems with trees around buildings is you end up with mold. He said there would be grass and trees outside the fence line. He said as far as around the buildings there would be leaf litter; you can't have mulch around because it's a fire hazard. Mr. Kelleher said he was talking about trees around the houses. He then asked to go to the traffic engineer.

Kim Hazavardian of Salem, NH said he produced the traffic study and filed it with the Town; he did a trip generator. He said the number of trips that came p was a little under, 300 per day; there were ten (10) in and nineteen (19) out. Hhe said the number of trips will be smaller with fewer units. They worked with 355,000 cubic yards; twenty (20) in and twenty (20) out with twenty-six (26) cubic yards per truck; 525 cubic yards per day would be three (3) work days. He

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said safety is not going to be a concern even with forty (40) a day; twenty (20) in and twenty (20) out; it won't make much of an impact. With regards to percentages (Route 3, Route 3A or plant ready), they are talking ten percent (10%) of eighty (80) trucks per day which is eight (8) trucks, a small amount. Mr. Kelleher asked if their analysis took in Route 3. Mr. Hazavardian said they looked at the number of trucks, twenty (20) in and twenty (20) out which is forty (40) a day. He said no matter how many trips it isn't going to create a safety issue; it will be spread out through the day. Mr. Hubbard said forty (40) trips is five (5) per hour.

Mr. Hubbard asked if he Board reviewed the plan in November; Mr. Kelleher said he has it. Mr. Pesce said he had it reviewed by Vanasse as further study was needed. Mr. Pesce said one of the main items for earth removal is to provide the truckload. Mr. Armstrong mentioned trucks going to Scituate and Mr. Kelleher said, "whoa, whoa" and said if they're going to Scituate they are going 3A. Mr. Armstrong said going up 3A is moving it away from 139. Mr. Ford said there were three (3) potential routes: 1) Clay Pit Road, 2) Clay Pit Road to Ferry and Furnace Streets and 3) straight to 139. Mr. Armstrong said there was a possibility for work on Holly Hill; they could bring it in for septic. Mr. Galvin asked if it had to be processed and Mr. Armstrong said they aren't going to process it, they are going to separate it; Mr. Pesce said they have the grizzly and Mr. Lopes said they have a power screen.

Mr. Pesce said they need to address the noise and dust. Mr. Kelleher said they need to know that and the percentages so that it's right with the Bylaw. Mr. Ford said an 18-wheeler to Holly Hill. Mr. Pesce said he truck route would follow town roads. The DPW's concern is if the roads can handle the loads. He said the discussion they had on the possible distribution of truck trips is 90% one way, 5% another way and 5% another way; Mr. Armstrong said they would work on it. Mr. Pesce said he heard them saying they are providing sand to Clay Pit Road; Mr. Armstrong said same as the guy up to Holly Hill which might happen once every six (6) months. Mr. Pesce asked if it would be 500 yards and Mr. Armstrong said it could be 1,000 yards. Mr. Pesce talked about perked sand and said there is some variability with on site processing vs. off site processing.

Mr. Kelleher asked if there were any other questions and asked the applicant if he had anything to add. The applicant said there was nothing to add. Kathy (last name not known) asked when the traffic study was done; Mr. Kelleher said November 29, 2016. He then said they would meet here on Monday, February 13<sup>th</sup> and thanked everyone for their patience.

Mr. Pesce asked Mr. Galvin if there was any update to #14 and Robert Barrett. Mr. Galvin said it was a concern of his because he wrote to MassHousing in November for suggestions and he heard back today from Greg Walter. The Board can condition, refuse waivers, penalize developer but no clear examples. He has no problem with Attorney Barrett as fiduciary but the money from the earth removal should be held aside; any excess profit, more than 20%, belongs to the Town. Mr. Galvin said rather than escrow they should look at a trust.

Mr. Kelleher made a motion to continue to February 13<sup>th</sup>. All were in favor.




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Respectfully submitted,

*Nanci M. Porreca*

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Zoning Administrator

These minutes were approved by the Board on May 24, 2022 by a  
5-0 vote.

Signed:  Date: 5/24/22