

**ZONING BOARD OF APPEALS MEETING PLACE: HEARING ROOM 2,
MARSHFIELD TOWN HALL AUGUST 30, 2017 7:30 p.m.
MEETING MINUTES**

Members Present:

*Lynne Fidler
Francis Hubbard
Heidi Conway
Brian Murphy
Richard Murphy*

Also Present:

Edward Pesce, Consulting Engineer

2022 JUL 15 AM 10:52

MARSHFIELD TOWN OFFICE
RECEIVED

Participating remotely: Mark Ford

Ms. Fidler called the meeting to order and advised that they were here to discuss Modera. She said that the meeting was being recorded by Marshfield Community Television (MCTV) and voices and images were being recorded. She addressed the fact that Chairman Mark Ford was not at the meeting and advised that he would participate remotely as he was out of Marshfield on business. Ms. Fidler read the protocol and called Mr. Ford.

#16-69: Marshfield Mews, LLC: The Petitioner is seeking a Comprehensive Permit in accordance with M.G.L. Chapter 40B for the construction of eleven (11) townhouse buildings, three (3) four-story buildings and one (1) clubhouse building; this development will consist of eighty-four (84) one-bedroom units, one hundred and forty-eight (148) two-bedroom units and thirty-eight (38) three-bedroom units, which will total 270 units in all, sixty-eight (68) of which will be considered affordable according to the Boston Metropolitan Statistical Area Index, as determined by HUD, on the property located on an approximately 22.2 acre site off of **Commerce Way** which is further identified on the Assessors' Maps as 08-01-06, 08-01-07, 08-01-08, 08-01-10A and is located in an I-1 zoning district and within a PMUD – Planned Mixed Use Overlay District.

Ms. Fidler asked Ms. Deborah Horwitz to give a recap of the plans. Ms. Horwitz identified herself and advised that she represents the applicant. She stated that they had done substantial revisions prior to the last meeting – updating elevations, reducing buildings to less than four (4) stories. She said that there were some engineering and grading plans that needed to be finalized. She stated that there had been a previous comment related to the landscaping in the pool area. She said that they like the area open but they would put more landscaping in if the Board preferred that. They also received a letter from the Building Inspector asking for them to provide funds for him to hire, they assume, someone to help with inspections. They can do that if that is what the Board wants them to do. She thought that it might make more sense for the architect to talk about the construction process, what is called a controlled construction process, and what Building Inspectors typically have to do. But at the end of the day if the Building Inspector wants this, they will do it. Ms. Fidler said that based on Mr. O'Neill's comments it was probably a wise decision but if there is a phased approach to permitting; there's an online system and maybe they could work this out later; perhaps it could be a condition and they can discuss. Ms. Horwitz said that since Mr. O'Neill was not there to talk about it, they could agree that they would accept a condition. During the permitting process if he decided that he didn't need as much or didn't need it at all then he would be the one to waive it.

Ms. Fidler asked for a recap of the actual plans; a description of each of the buildings and

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whether or not they have changed from the original concept. She was wondering if the two (2) bedroom or three (3) bedroom units have changed from building to building. She also asked how they apply to affordable housing. Ms. Horwitz said that under a 40B rental project where you have at least 25% of the units as affordable, as long as you have 25% of one (1) bedroom, two (2) bedroom and three (3) bedroom units set as affordable rents then 100% would go towards the town's inventory. At this point there were phone issues with Mr. Ford's remote connection and the Board needed to connect with him again. Ms. Horwitz said that for the state's purpose, with their 25% all units would go towards the 10% of Marshfield's subsidized housing; Marshfield is currently at 5.6% and would then go to 8.1%. She said that the unit mix changed a bit with a reduction of ten (10) bedrooms. They reconfigured the site, especially the townhouses, and there are fewer three (3) bedroom units and slightly fewer two (2) bedroom units than the original plan.

Ms. Fidler asked if she was an individual coming in to the lottery system, are the chances of getting a unit in Building B higher than in the other buildings? Ms. Horwitz said that she didn't think so but she was not a lottery expert; they will have a consultant that will do that. It's by unit type, by number of bedrooms and what families would qualify for based on the number of bedrooms in the unit. Ms. Fidler asked if these units were scattered throughout the buildings; Ms. Horwitz said that they were and that there was no way to identify which was which. The finishes will be exactly the same inside and outside. Ms. Conway asked if it was more like what was available for one (1) bedroom or two (2) bedrooms versus that only "these" units were available. At the beginning, Mass Housing will require the affordable units to be scattered. But if a family is in an affordable unit and they are doing better and go over income, they can leave them in place and rent the next available same type unit to another family at an affordable level. Ms. Conway asked if those apartments were identified as affordable. Ms. Horwitz said they are identified by plan only at the state agency; they aren't identified on site either externally or internally but there has to be some way of having a count and the state being able to be clear when they do their reports that they are providing the right number of affordable units. Ms. Conway said that when she did affordable housing before it would be that there would be seven (7) two (2) bedrooms and you would pick the one that you liked based on the layout, but that apartment was not always going to be an affordable unit. Ms. Horwitz gave an example that there were seven (7) three (3) bedrooms available and the first person who qualifies for the lottery picks the one that they want and that isn't necessarily affordable. She said that is one of the reasons that the finishes are exactly the same because they know that one unit isn't always going to be market or always affordable. Ms. Fidler asked the Board and the public if they had any specific questions about affordable housing and there were none.

Ms. Horwitz explained that the layout is basically the same, you come in by the clubhouse/leasing area; the townhouse area hasn't changed, they just went from three (3) stories to two (2) stories. They added parking across the street from the clubhouse; they added a walking path between the pool and the townhouses; they added a playground and more parking near the playground. Ms. Horwitz said that the three (3) L-shaped four (4) story buildings were changed to three (3) stories and they broke the other buildings up. Ms. Fidler asked how many people would be going into Building B, where the lobby was, etc.; that building is a concern for her. Andrew Stebbins from the architectural team said that the other buildings are all flats buildings

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which means that the units are all on one level, they're all walk up flats. Building B is an elevator building with a single elevator. Ms. Fidler asked if the elevator was on the far right and Mr. Stebbins said that it was towards the middle; Ms. Fidler said that it was a long way to walk. Ms. Fidler said that the Board had received the new plans at 4:00 P.M. the previous day; they have not had much time to review the plans and the public has not seen them. Mr. Stebbins reviewed the floor plans.

Ms. Fidler stated that Greg Guimond, the Town Planner, was in attendance. Mr. Guimond said that he was glad that they had reduced to three (3) stories but now it was an even larger building. It is now 375' x 325' x 280' when you look at the exterior. Ms. Fidler asked what the actual square footage for this building is. Mr. Stebbins said that he thought what Mr. Guimond was referencing was that the building was larger. He said it has the same number of units but they are spread over more site area. This building has eighty (80) units so it has more units than the previous building. Ms. Fidler said that the public has brought concerns about density and it is also an issue with her and she thinks that it is something that needs to be addressed; have a discussion about eliminating this particular building. Ms. Horwitz said that they spent a lot of time and money engineering the site to deal with the four (4) story issue. They have given up three (3) bedroom units which were projected to generate a lot of revenue. She said that with the three (3) story buildings being walkups they are already projecting lower rents for the market rate units because they don't have elevator buildings. Ms. Horwitz said with the addition of buildings, they have added costs. Ms. Horwitz said that she was not trying to be confrontational but as she has said in prior responses in writing and in prior hearings, it is true that with 40B if the Board is concerned with density it has to be for health or safety issues. The issues with traffic, water have already been dealt with so there really isn't a 40B jurisdictional issue. She said that they are comfortable with this project at this number and are not planning to reduce the number of units.

Ms. Fidler said that there were public comments at the last hearing and she believed it was Mr. Dupuis who had significant arguments for various points. She asked Ms. Horwitz if she wanted to get into those points or should they just deliberate. Ms. Horwitz said that they had provided responses at the last hearing and provided written responses to concerns but they did not respond to every little detail. If you take Title V and sewerage, Mr. Pesce tried to make clear at the last meeting was that Mr. Dupuis was referencing Title V numbers and Title V isn't applicable to this site. What is applicable here is a very sophisticated wastewater treatment plant that will be designed by their consultants but reviewed and permitted by Mass. DEP. There are two (2) sets of escrow pots of money – one to do current repairs in case anything goes wrong and one that builds up over time to do replacement as DEP realizes that parts need to be replaced over time. Ms. Horwitz said that regarding the comments about water, they have talked to the DPW and the Board and all have passed on it. She agreed that Mr. Dupuis did a lot of work but the issues he raised were not applicable.

Mr. Pesce referenced letters from June 3rd and August 30th and said there were not significant impediments to finalizing plans with Bob Carter. They have looked at mitigation for traffic, wastewater, retaining walls and the grading was changed between Buildings C and D and bordering E1 and E2. He said that one concern the Board mentioned in previous meetings was

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how does this impact the development of the rest of the park. He said the athletic complex was not coming to pass. Mr. Pesce said that this plan gives a good feel of what the buildings will look like and they will ask to provide a color palette at some point. Ms. Horwitz said that she was intending to be non-confrontational but what happens with the rest of the development is beyond the purview of the Zoning Board; but they did look at it. There would have been 38,000 gallons of water per day for the rink but they are out. This project is expected to use 35,000 gallons per day. She said that they are taking care of sewerage on site. Ms. Fidler asked about storm water runoff and were those plans in draft stage or final stage. Mr. Pesce said that the drawings for drainage grading and utility plans were preliminary drawings but they have all of the catch basins, storm water, sanitary and water supplies; a subsurface filtration system. He said that he isn't concerned that it's not done, that it was in draft condition and that final designs would be required. Mr. Pesce said that all of the information was there for him to understand. At the discretion of the Board it can be done now or when they get the building permits. He said that the drainage system will collect and filter. There will be a meeting with Stenbeck and Taylor. Ms. Fidler expressed concerns that the plans were not finalized. Ms. Horwitz said that the plans are beyond what is required by 40B rules and local rules. Ms. Fidler said that there have been concerns by the Board and the public about the slope. Mr. Pesce said that the plan had been done with good engineering practices.

Mr. Guimond talked about traffic mitigation and mentioned the 35 improvements identified by the applicant of which they offered to care for seven (7) of them. Mr. Guimond suggested a stop sign and crosswalk right before Proprietors Drive as he is concerned about cars speeding up Commerce. He said that with the schools the volume of traffic is high; people will drop off their kids before they go to their jobs. There are no left arrows when coming out of Furnace Street or from Roche Brothers and he suggested that left arrows be added. Mr. Guimond talked about the free right into Roche Brothers; that people taking that right might not see kids crossing. They should restrict that free right and the right coming out of Furnace Street. Mr. Pesce said that the first comment about the crosswalk does not seem unreasonable. Mr. Jeffery Dirk said that they conducted a road safety audit and they will provide funds to implement the improvements that were identified. He said that the value of everything that needs to be done is \$97,000. He also said that he did not think what Mr. Guimond was suggesting was unreasonable. Ms. Fidler asked about the proportion of funds and Mr. Dirk said that they did a fair share cost analysis. There could be a 2% increase in traffic; whatever the costs of improvements at that location, the project would be responsible for 2% of the costs. Ms. Horwitz said that she believed this was already in the draft of conditions. Mr. Dirk said that moving crosswalks would be okay because pedestrians would be crossing. Mr. Pesce said that the biggest safety concern brought up by the Marshfield Police Department was the right into Roche Brothers and not seeing the kids crossing. Mr. Dirk said that if the improvements cost \$10,000 they would be responsible for 2% of that but they could look at it and do it all. Mr. R. Murphy asked Mr. Dirk to walk him through how he arrived at the 2% number. Mr. Dirk said that they project how much traffic will go through prior to construction. They look at the traffic before 2023 and then after 2023 and determined that it would result in an increase of 2%. Mr. Dirk gave a breakdown of traffic during various hours both before the project and after the project.

The Board took a ten (10) minute break and called Mr. Ford again when they came back; the

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meeting was called back to order at 9:15. Ms. Fidler asked the Board members to give an item that they would like to see addressed. Ms. Conway said that she was concerned about Building B – the size, one elevator; the location of the entrances, trash. She is also concerned about the location of the playground. She said that from a real estate view, she does not think that one (1) bedroom apartments are needed like two (2) and three (3) bedrooms. Mr. Hubbard asked if there was any way to break the building up and said that it was bigger than Village Green. Mr. B. Murphy said that he was looking forward to the traffic mitigation. Mr. R. Murphy said that the overall size was a concern for him and he wasn't sure what an impact scaling the building down would have on traffic. Mr. Ford said that he agreed with what was said about Building B. Ms. Fidler stated that the size of Building B was a concern of most members.

Mr. Ford referred to a comment Ms. Horwitz had made earlier about other developments in the park not being in the Board's purview. Ms. Horwitz said that when the Board is presented with a 40B, that is what is in front of the Board, not future development. She said that other than traffic what happens in the park is not in the ZBA's purview. Mr. Ford said that we have a project with 280 units and the traffic study shows minimal impact on (Route) 139 and he wondered if the Board was hamstringing themselves. He wasn't sure if going all in on one project would hurt the Town down the line. Ms. Horwitz said that whether this was a 40B or not, it was their job to mitigate traffic and future projects would mitigate theirs. Mr. Ford said that he did not expect Ms. Horwitz to agree and asked why they were forced to go all in with the goals of one developer. Ms. Horwitz said that was what the law said; she said that the Board's consultant and counsel could weigh in.

Ms. Fidler said that she would give the public an opportunity to discuss; she advised to keep it brief and that regarding Building B, they know that there are issues with the traffic. She said that they shouldn't reiterate what the person next to them said; they should speak to Building B and the traffic. Mr. David Rodriguez of Seth Sprague Drive said that the traffic plan was flawed because it was done in the fall; there is an increase of 25,000 in the summer. He said that 270 units were ridiculous; the Board should look three (3) miles west to Water Street and 139 in Pembroke; the Town rejected a project of fifty-six (56) units because of traffic concerns; it's too dense for an already congested area. Ms. Susan Brady of Seth Sprague Drive said that there are 270 units but not everyone has a car; forty-nine (49) cars going out one (1) way but they don't know where they are going. She asked about the increase of kids crossing in the development and the impact on the schools. Ms. Horwitz said that with respect to traffic, they did a full study a year ago. She said that she understands some people weren't at meetings but it wasn't fair to have them start from scratch and asked if they could be specific with their questions. Ms. Fidler said that they weren't asking them to start from scratch but it was so long ago; they don't want to deliberate without having answers and asked about seasonality. Ms. Horwitz said that seasonality was addressed in the report. Mr. Dirk said that did a full traffic study. He said that the state has standards that states what the average is and they started with above average. He said that they were not required to look at seasonal. He also said that traffic patterns and volumes differ when school is in session and when it's seasonal.

Mr. Pesce said that there were two (2) numbers mentioned - peak hour rates and not every single vehicle will be leaving at the same time and going to the same location. Ms. Anna Baker said

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that she lived across town and doesn't understand the process. She said that it sounds like the project is already planned and asked if the Board still has a say and if the public can still have input re: the number of units. Ms. Baker said that when the developer speaks they are saying this is happening and she asked if this had been approved already. Ms. Fidler said that the Board is a quasi-judicial board and they will deliberate and vote and will look at all of the paper, reports, plans, minutes, public comments and applicant's suggestions. Ms. Fidler said that the Board has identified issues with density and buildings; they have gone over parking and lighting; as far as answering Ms. Baker's question if this has already been approved, obviously not as there is still a lot of work to be done, waivers, and they are not ready to make a decision. Ms. Baker asked if the Board could impact how this project winds up. Ms. Fidler said yes, they can impose conditions and they will have several heated discussions. Ms. Baker said that her main concern was the impact on the schools; with 270 units, even if half had once child that would be 150 kids. She mentioned it before and was told other Modera projects tend to not have a lot of children and she thinks that is a big assumption. They will have a pool, a playground and it is an attractive community. But the schools were just redistricted and she asked if they would have to be redistricted again.

Mr. B. Murphy asked Ms. Baker if she had received Mr. Dupuis' paper with breakdowns and she had not. Ms. Fidler responded to the point about the children and read from the September 23, 2016 Mass Housing letter by Timothy Sullivan, Executive Director. There were several issues that Mass Housing went through to determine if this project was a viable project and one of the comments on Page 4, Number 7 was, "In light of the number of two (2) and three (3) bedroom apartments, dedicated play areas for young children should be provided on site. The site approval expressly limited to the development of no more than 270 units under the terms of the program under which not less than 68 of such units shall be restricted as affordable." Ms. Baker said that going from 270 to 150 would help a lot. Mr. Dupuis had new information to share and distributed a handout with water usage calculations. He said the project is the equivalent of three (3) football fields in size with two (2) exits; it would be hard to get everyone out in an emergency with one (1) elevator especially the handicapped. He said that he was concerned with the water pressure should there be a fire somewhere else. Mr. Dupuis said that he projected 80 students with four (4) teachers at \$45,000 per year. He said that he called the Superintendent's office and they need to include salary, buses, special needs. Mr. Dupuis' calculation calls for \$11,912.68 per student times 80 students would be \$953,000 per year.

Mr. Guimond said that the Housing Production Plan was mentioned by the applicant's representatives. He said that there were three (3) points on Page 15 of the Housing Production Plan: 1) affordable housing with low and medium density was one of the goals; 2) supposed to eliminate huge impacts in any one part of the Town; 3) comply to architectural character of the area. Those are the points in the Housing Production Plan that specifically speak to mass and density. Ms. Fidler said that she thinks the Board has made density a very big issue. Jerry Carl of Red Pony Path said that obviously property tax would be assessed and asked if anyone had looked at what the estimate would be to offset some of the costs. Ms. Fidler said they would go forward tonight with a list of marching orders and that would be one of the items on the list. Ms. Fidler stated that she would like

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Meeting adjourned at 10:20 P.M.

Respectfully submitted,



Nanci M. Porreca
Zoning Administrator

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

Signed,

Clerk

I attest the foregoing minutes were approved by the Zoning Board of Appeals at their

_____ meeting by a _____ vote.

Signed:



Date:

5/24/22