



TOWN OF
STONEHAM
MASSACHUSETTS
Town Hall
35 Central Street
Stoneham, Massachusetts 02180
BOARD OF APPEALS
781-279-2695

Stoneham Board of Appeals Executive Session Minutes
Monday December 12, 2022
Town Hall Hearing Room
6:00 PM

Members of the Board present: R. Michael Dufour, Vice Chairman Robert Saltzman, Chairman Tobin Shulman, Kevin McLaughlin, and Associate Member William Sullivan.

Also present: Town Clerk Maria Sagarino acting as Clerk to the Board of Appeals

The Chairman was unavoidably detained so the meeting did not begin at 6:00 PM. Upon his arrival, Mr. Shulman entertained a motion from Mr. Saltzman to open the meeting which was seconded by Mr. Dufour. All members present voted in favor.

Mr. Saltzman then made a motion to go into executive session to discuss strategy with respect to all pending litigation where an open meeting may have a detrimental effect on the bargaining or litigating position of the Town and the chair so declares; pursuant to M.G.L. c. 30A, sec. 21(a)(3) to wit: Weiss Farm (Stoneham Board of Appeals v. Housing Appeals Committee) and not to return to open session at the conclusion of the executive session. Mr. Sullivan seconded. A roll call vote was taken. All members present voted in favor.

The meeting was brought to order at 6:36 PM. Mr. Shulman recognizes Mr. Sullivan. Mr. Sullivan finds the agreement to be extremely beneficial to the developer. He believes that some stuff is beneficial to the Town but the developer is getting a lot out of it. Mr. Saltzman stated that the left hand turn lane doesn't benefit the developer but it does benefit the Town. Mr. Sullivan responded that it also benefits the developer. He wouldn't have people willing to rent if they can't get in and out of the property. Mr. Saltzman agreed but believed he'd have people in there regardless. Mr. Sullivan didn't think they'd fill up that place if the traffic couldn't get in and out easily, especially when this is happening in the same timeframe as the High School. It's a mess, but let's give them a lot of money off. Mr. Sullivan continued to say that Dennis Sheehan believed that \$150,000 was a lot for inspections.

Mr. Sullivan thinks that the agreement that Mr. Galvin has presented is very developer laden. Mr. Sullivan thinks that the Town is going along with the developer because they don't want 259 units. He could care less. He doesn't see much of a difference with 30 units from the Town's Perspective. He sees more of a difference for the developer. He has to build them. What about his profit. As the numbers come down, he isn't making money. Mr. Sullivan believes that the developer needed to find a way to make up the money. Mr. Saltzman added that it's not easy because the people who ultimately pulled the plug on this and decided to go in a different direction at the last second were the people with the least knowledge about what was going on. Mr. Saltzman continued to say that their Board was involved at all stages. The Board knew what the numbers were, they knew where things were going. All of a sudden, Mr. Galvin said I'll do it, I'll appeal and the next night he went upstairs and the answer is pound sand. It was disgraceful and there has been no explanation.

Mr. Sullivan added that at the last meeting when he told Attorney Galvin that he had just wasted an hour and a half of his time, Mr. Galvin said the Select Board can do it on their own. They don't need the Board of Appeals. Mr. Saltzman asked if Mr. Galvin said that. Mr. Sullivan said that he did and Mr. Sullivan's response was that we should let the Select Board vote.

Again Mr. Sullivan stated that he wasted his time and Mr. Galvin had then said that the Board hadn't wasted their time because could be coming back to Mr. Sullivan believes that we are being played by our own people not Corcoran. Mr. Sullivan believes that they are trying to appease the Town and the developer at the same time. The Board of Appeals and the Conservation Commission aren't too happy about what is going on. Mr. Sullivan thinks that the developer only agreed to pay the \$400,000 for water mitigation if the building department fees were capped at \$150,000. So the developer donates over here and looks like a hero and nobody will know that you just took it out of the building department fees.

Mr. Dufour questioned if it was the money about the water that he was talking about and what the amount was. He remembered Mr. Saltzman saying that \$300,000 would do it but there was \$400,000 proposed.

Mr. Saltzman responded that was correct but that Mr. Sullivan was saying that the \$600,000 would be the permitting fees on a project that size. Mr. Sullivan goes over the fees he believes they are proposing, \$150,000 for building permit fees, \$50,000 for consultants/peer review [actually \$25,000 in draft agreement] and then \$400,000 for water. It seems like they aren't giving us anything when our building permit fees would be over \$600,000.

Mr. Dufour added that they have basically shifted the money and adds that they are basically giving us nothing for the building permit fees and throwing \$400,000 for water so we will shut up. Mr. Saltzman added that it's our money that they are shifting.

Mr. Sullivan added that nobody would realize they shortchanged us because they wouldn't know what the building fees should be. Mr. Sullivan believes that we shouldn't give them a break on the building permit fees. That language should be taken out. The building permit fees will be what they are. They should be treated no differently than any other developer. Any developer that gets a break on something is usually doing work for the Town, for the schools or DPW and when they are doing work for us, it's permit free. This isn't the case. They should follow the rules like everyone else. Mr. Sullivan continued to say if the line in section 42(a) on page 9 about the \$150,000 for building permit fees was taken out, he'd be okay with it. It would show him that they are being honorable. Mr. Sullivan continued to say that what he is looking at is drafted for business men. Our Town Counsel, our Town Administrator and the Select Board are trying to get it through the Board of Appeals and Conservation Commission so the developer's happy.

Mr. Saltzman does add that the \$400,000 is being designated for the water. The only time the water would happen is now because they are going to be in there a hundred years. It should be done as they are walking in the door. He thinks that what's proposed is better than what the Housing Appeals Committee decided. That decision is worse for us. He would be in favor of this draft over that but there was a better deal to be had than what we got and he still doesn't understand how this thing happened the way that it did. He doesn't understand why Town Counsel was willing to go with the appeal and then was not willing to go with the appeal.

Mr. Sullivan doesn't believe Mr. Galvin was ever willing to go along with the appeal. Mr. Saltzman agreed but reminded the Board that Mr. Galvin said he was willing to go along with the appeal with everyone in the room including Attorney Jon Witten. Mr. Sullivan would like to know what transpired with the Select Board. All he had to say was they want to appeal, I don't think it's worth it. Then the Select Board says see you later to the appeal. Mr. Saltzman stated that if he said in this room last week that they don't need us, I do understand that. Mr. McLaughlin added that the Town Administrator said the same thing. Mr. Sullivan explained that the Town Administrator gets his information from Town Counsel. Mr. Shulman interrupts to clarify that procedurally it was the Board's decision that was in court. He then asked if what they were saying is that they could bypass the Housing Appeals Committee decision. Mr. Saltzman explained that they can bypass that with the agreement of all parties, the Town, Corcoran and Housing Appeals. Housing Appeals would go along with it because the parties have agreed.

Mr. Shulman again clarifies that previously the parties had been the Town, meaning the Zoning Board of Appeals, they are now swapping that out to mean the Select Board when referencing the Town.

Mr. Saltzman stated that if you don't like the agreement, vote against it, but he believes that the Board of Appeals decision controls what happens next. Mr. Saltzman doesn't agree with Mr. Galvin that the Select Board can act. He was wrong on the appeal, he was wrong on the brief and I think he's wrong on as who controls her.

Mr. Dufour heard that a source said that \$300,000 should take care of this. Mr. Dufour wanted to know when that number was brought up. It seems like a short number for what needs to be done. We've been doing this for years now, was that a number brought up 4 years ago? 5 years ago? When? It doesn't apply today. Mr. Shulman agreed that that figure is wildly outdated. Mr. Dufour said that he had heard numbers kicking around like half a million. He continued to say that now we are basically giving them a permit, so we're paying for the improvements. He doesn't agree with doing that.

Mr. Saltzman added that the Housing Appeals Board told them that they didn't have to do anything about the water issue. Mr. Sullivan said he'd go along with what Ellen McBride and Bob Parsons [Conservation Commission Co-Chairs] said, they aren't the State and have no authority over the wetlands. They can't make the water any worse. They have to retain their own water. There are other rules and regulations coming into play.

Mr. Saltzman stated that if they put in \$400,000 it would be toward that purpose. Mr. Sullivan agreed but he thinks that this proposal is without the fees for the building department in there. If that is stricken, he's all in. Mr. Saltzman asked him to repeat that. Mr. Sullivan stated that if section 42(a) on page 9 concerning the one time building permit fee of \$150,000 is stricken and they pay whatever the actual building permit fees are, he's okay with this. He continued to say that that tells him that they want to work with us and still give us \$400,000.

Mr. Saltzman asked if the \$600,000 [presumed building permit fees from a project this size] would go into the general fund. Then the Town from that general fund would have to work on the water. Mr. Sullivan said absolutely not. Mr. Shulman added that he wasn't striking the \$400,000. Mr. Dufour added that he's not capping the building fees. Mr. Sullivan clarified by saying that he would keep the \$400,000 for water and \$25,000 for the consultant. He just wants them to pay what anyone else would pay for the building permit. He doesn't see anything else that makes them special. They've already

beaten us in court. If they want to say they are good with us let's strike the one time building permit fee of \$150,000 and they will pay whatever the building permit fee is at the current rate.

Mr. McLaughlin asked if the building permit fee money went into the general fund. Mr. Sullivan said that it would. He then read over section 42 for Mr. McLaughlin's benefit.

Mr. Saltzman asked if the \$400,000 would be taken out. Mr. Sullivan and Mr. Dufour answered no. Mr. Dufour added that we'd see if they were trying to backdoor it and make it look like they gave something to us when they are stealing it from a different department.

Mr. Saltzman questions whether we'd now be getting \$40,000 and \$600,000.

Mr. Sullivan answered \$400,000 plus what the building permit fees are. Maybe they're only \$200,000 or maybe they are \$800,000. Whatever they are, they pay. So they donate \$400,000 and pay \$25,000 for the review and pay all other fees owed to the Town as to what the Town of Stoneham's fee schedule is. Just like any other developer. They pay whatever fees. Fire Department, DPW, all the fees that any other developer would pay. That's just his opinion.

Mr. Shulman asked if Mr. Sullivan could state that in the form of a motion.

Mr. Sullivan moved that they take out the \$150,000 one-time building permit fee by striking section 42(a) on page 9. They will pay all applicable building permit and town fees along with giving the \$400,000 for water and the \$25,000 for review. Mr. McLaughlin seconded the motion. A roll call vote was taken. All members present voted in favor (Sullivan, McLaughlin, Saltzman, Dufour, Shulman).

Mr. Sullivan said that it's a good project. Mr. Dufour added that we know it will get done. Mr. Sullivan also said that he doesn't see them coming back agreeing to this. If they do awesome. We'll see what happens.

Motion to adjourn made by Mr. Saltzman and seconded by Mr. McLaughlin. A roll call vote was taken. All members voted in favor.

Meeting adjourned at 6:52PM

Documents and other exhibits used by the Board of Appeals during this meeting to be made part of the official record but not attached to these minutes:

Draft of compromised comprehensive permit as presented by Attorney Galvin-12 pages titled "Town of Stoneham, Massachusetts, Zoning Board of Appeals, Final Comprehensive Permit, Applicant: Weis Farm Apartments, LLC Decision Date: November ____, 2022"

Respectfully submitted:

Maria Sagarino
Town Clerk