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S T O N E H A M
M A S S A C H U S E T T S
Town Hall
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Stoneham, Massachusetts 02180
BOARD OF APPEALS
781-279-2695

Stoneham Board of Appeals Executive Session Minutes
Thursday, October 27, 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 Members Mark Russell and William Sullivan.

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

At the conclusion of the regular meeting, Mr. Saltzman made a motion to go into executive session and not to return. [This would be 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, et al)] Mr. Dufour seconded. A roll call vote was taken. All members voted in favor (Sullivan, Russell, McLaughlin, Saltzman, Dufour and Shulman).

The executive session was called to order at 6:57PM. Vice Chairman Robert Saltzman began his update to the Board on the latest developments with the Weiss Farm project.

He stated that we are now looking at 230 units to be built. That is their last proposal. Corcoran would also give \$400,000 to the Town to help resolve the water issues. He pointed out that if we went the distance we would be looking at 259 units. They would not have to cough up a cent. This does look like progress but it also shows thirty units lost for not pursuing the appeal. They have thirty additional units than they would have had with the originally negotiated agreement stood as proposed.

Mr. Saltzman continued to say he is not of the forgiving cast of mind. Whatever we think about the Town Attorney and whether or not he followed what were the Board's instructions concerning the appeal or his agreed upon course in pursuing the appeal. The Town's attorney is working on the agreement. We don't have anyone else that we can put in there to work on the agreement. This is a necessary course we now have to follow no matter our personal feelings.

Mr. Saltzman went on to say that the notion Attorney Galvin was floating that we were getting played by Corcoran was completely false. The notion also that the appeal did not include what Attorney Witten said at the Bi-Board Executive Session that the HAC can't overrule the Wetland Protections Act. They can push us around but the Wetlands Protection Act is a statute. The HAC is bigger than us but not the law. That should have really been pursued. At some point it might be wise for the Board to take a no confidence vote if the board is so inclined. He wouldn't do so tonight because we need this decision to be done.

Mr. Saltzman continued to say that we are now in front of Superior Court so that this gets done and done right. Corcoran, the Town, Amato Bucchino for Donna Weiss, the Attorney General's Office. There are four lawyers in on this to get more time. The Judge is a pretty reasonable guy and he believed there would be a sixty day continuance to get this agreement done. He then explains to the Board that there is a draft agreement. It begins with the ZBA decision from six years ago. It's the template. Everything was written on top of that. So Witten's decision by this Board restricting them to 125 units is the starting point by which everything will be subtracted or added.

Mr. Sullivan asked what would happen if we did nothing. Here you go, build your 259 units. How many buildings would there be?

Mr. Saltzman knows Jon Witten talked about it as a way to go but each bend of the road has had us considering that. With each step we thought we'd get more by trying to resolve it. What's in it for us? \$400,000 will solve a lot of problems. Water is a big issue. Bill Sullivan agreed but said water will always be an issue. Mr. McLaughlin asked if they thought \$400,000 would make a difference. Would it be enough?

Mr. Saltzman said some of this water mitigation I on the Town and maybe there would be some funds from the State. Donna Weiss never had the money to deal with the water, but this is the one time someone is showing up on the site with some money and something could be done.

He believed the failure to act is worse. He said that Corcoran will not make things worse, they can only make it better. He said that the storm water management in place at the time of the application is different than today. We don't have the protections of that statute in our favor. The \$400,000 will make up for some of that. He would prefer 200 units but thirty less is better than thirty more.

Mr. Dufour asked if the \$400,000 would be in addition to what they have to do on their property. Mr. Saltzman said to comply they just have to no make things worse. Mr. Sullivan stated there are a lot of wetlands there regardless if they fix the water.

Mr. Saltzman said taking the money is a good move. It leaves us better than the HAC left us.

Again Mr. Sullivan wants to know how many buildings. What are we getting? Mr. Saltzman said with the 259 there would have been several five story buildings. Again, they were down to one five story building in the back that was less cumbersome.

Mr. Shulman adds that 259 units would have been five big buildings.

Mr. Saltzman said the Board will have no say over aesthetics now which again was part of the agreement that fell apart. He tells the Board that reading the minutes of the last executive session got him mad all over again. Mr. McLaughlin agreed and he would like a vote of no confidence. Mr. Shulman stated there is no action tonight. This is just an update.

Mr. Sullivan isn't foreign to the idea of no action. Are we getting enough for what we are giving up? Who is negotiating now?

Mr. Sullivan asked about Conservation. They need to be sold on this idea. Mr. Saltzman said that in the end what is the Town's interest and what will the final product look like.

They are getting an extension in court. Mr. Sullivan said we could have done it with an appeal. Mr. Saltzman still doesn't understand what happened. Mr. Sullivan has more faith in Corcoran than he does with Galvin. Mr. Saltzman reminds the Board of the call with Peter Mahoney after the Bi-Board executive session. The appeal wouldn't have cost us anything. It would have bought valuable time to wind up with something far more manageable.

Mr. Sullivan said so in the end this is a decision of the Board of Appeals? Yes. Mr. McLaughlin wants to know if Mr. Saltzman stays in the mix. Attorney Galvin answered to the Select Board and did what they wanted but did he advocate for what was decided the night before? Mr. McLaughlin said he didn't want to do it. Mr. Saltzman added that Attorney Witten shamed him into going along with it.

Mr. Sullivan asked hypothetically what happens if we say you won and Corcoran comes back and says that they can't build 259 units. Mr. Saltzman said the HAC would give them whatever they want. Mr.

Shulman stated that you'd never get in trouble for building less. Mr. Saltzman again states he doesn't know why it went the way it did.

Mr. Sullivan asked if Conservation would be part of this. They will. Mr. Saltzman talked about the original money and that they are now getting an extra 30 units for an extra \$150,000. So the \$400,000 is a consolation prize.

The next time this comes up will be a decision meeting.

The executive session adjourned at 7:31PM.

Respectfully submitted:

Maria Sagarino
Town Clerk