

TOWN OF WELLESLEY



MASSACHUSETTS

## ZONING BOARD OF APPEALS

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EXECUTIVE SECRETARY  
TELEPHONE  
(781) 431-1019 EXT. 2208

ROBERT W. LEVY  
WALTER B. ADAMS  
DEREK B. REDGATE

January 18, 2018

Juliani Meeting Room  
Town Hall

Zoning Board of Appeals Members Present: Richard L. Seegel, Chairman  
J. Randolph Becker  
Walter B. Adams

Also present: Thomas Harrington, Esq., Town Counsel  
Christopher Heep, Esq., Town Counsel  
Meghan Jop, Assistant Executive Director  
David Hickey, Town Engineer

### ZBA 2017-99, DELANSON REALTY PARTNERS LLC, 8 DELANSON CIRCLE

Mr. Harrington said that the Town will use VHB as their Traffic Consultant. He said that there is an agreement on a Parking Consultant and the Town is still working on an architect. Mr. Seegel said that the Town will receive several proposals for an architect. He said that the Board will meet at 9 am on February 1, 2018 for a business meeting to choose an architect.

Mr. Seegel said that he wanted to remind the neighbors that the role of the ZBA is not policy making Board. He said that in this instance the Board is governed by MGL, Chapter 40B, the ZBL and materials that it receives from experts. He said that in making its decision, the Board relies only on the facts of the case. He said that when the Board asks questions it is seeking information. He said that the Board hopes that when members of the public asks questions, it hopes that they will be useful ones. He said that the Board received many letters over the past couple of weeks. He asked, if possible, that the neighbors consult with one another and agree on formats for letters to the Board. He said that the Board received a dozen letters saying the same thing and the members do not have time to read everything. He said that it makes more sense for the neighbors to send a letter that the Board will assume has been signed on by everyone in the Association.

Presenting the case at the hearing was Bob Engler SEB, 40B Consultant, said that a Traffic Consultant had not been agreed to. Mr. Harrington said that the Town has two traffic consultants on retainer, VHB and BETA. He said that the Applicant gave the Town a \$10,000 check and that will go toward the Town's quasi in house traffic consultant, VHB.

Mr. Engler said that following the previous hearing, the Applicant knew that they had to turn in new materials by January 8, 2018, ten days ahead of this hearing. He said that they thought that it would be

an architectural/landscape review. He said that from what they have heard, this will be more on the civil engineering side. He said that the material that they turned in on the architecture can hold. He said that they only got the DPW response today and cannot respond to that today because they need time to review it. He said that February was when the Applicant and the Town would be able to get their traffic consultants together to discuss traffic. He said that it will be useful for the traffic engineers to have time to talk to each other before the next hearing. He said that it would be helpful for the Applicant to sit with the Town Engineers and come back again with responses to their comments and work on things that would be useful.

Mr. Seegel said that the Board has not received a complete Stormwater Management Report. He said that the Town Engineer had trouble responding because he did not have a lot of information that he should have. He asked when the Applicant expects to have that filed. Mr. Engler said that will be part of their Engineering Report, what they have, what they do not have and when they expect to get it to the Board. He said that the problem with 40B is that it is preliminary, schematic design that is supposed to be voted on. He said that once the vote is taken, the Applicant goes ahead with expensive detailed engineering and architecture, subject to final review. He said that it is always a push and pull as to how much information is required for the Board to make a decision. He said that the Applicant knows that the submittal is short on the engineering side and will rectify that. He asked that they be allowed to present what they have currently and that will indicate what is missing and they will see where it ends up at the conclusion of the hearing tonight.

Brad McKenzie, McKenzie Engineering Group, Inc., said that his firm prepared the civil drawings and the land survey. He discussed existing and proposed site conditions. He displayed an aerial view of the site.

Mr. McKenzie said that the site is 1.46 acres. He said that five existing single family homes front on Delanson Circle. He said that the homes are serviced by utilities within the layout of Delanson Circle. He said that the topography ranges from an elevation of 200 to approximately 165 or 170 near the intersection of Hollis and Linden Streets. He said that the soil on the site varies. He said that the NRCS Survey has it as a Charlton Hollis rock complex, which consists of soils varying in permeability rates, from very permeable to soils that are not so permeable and consists of some ledge outcroppings. He said that they did some soil testing in December, subsequent to the submission of the report in November. He said that there is some ledge. He said that they did not encounter any groundwater during excavation of the test holes. He said that seven test pits were excavated throughout the site. He said that they realize that their Stormwater Management Report will have to be revised to reflect the findings of the soil analysis that was done in December. He said that the site does not have any unusual environmental or zoning constraints. He said that it is not in a flood plain, not in a DEP Zone 2 or a well protection area or any other overlay districts that they are aware of. He said that there are no wetland resources subject to local or MA DEP regulations.

Mr. McKenzie said that the proposed project is a 90 unit, four story building with basement parking. He said that vehicular access will be from Hollis Street and pedestrian access will be from Linden Street. He said that there is a proposed fire lane, permeable pavers, and a terraced retaining wall system to minimize the cuts in the site. He said that the stormwater management system consists of stormwater planters along the perimeter of the site along Hollis Street and Linden Street. He said that there are some subsurface drainage systems proposed that will be reevaluated based on the recent soil analysis. He said that there will be a surface retention area which is designed to accept surface runoff from the Oakcroft Road area. He said that their analysis did account for the watershed that contributes flows to the site. He said that the basin has been designed to fully accommodate a 100-Year Storm event. He said that stormwater will be routed to an overflow connection to the Town's drainage system. He said that under State and Town regulations they are required to design a system

that will mitigate the increase in peak rates of runoff. He said that this design will reduce peak rates by 30 percent.

Mr. Seegel asked if the Applicant discussed proposed hook up with the town's drainage system with anyone in town. Mr. McKenzie said that they have not done that yet. He said that they were waiting for the peer review. Mr. Seegel asked if the Applicant is aware of the capacity of the drain system at this location. Mr. McKenzie said that they are not but the peak rates will be reduced from the existing condition, so there will be no adverse impact on the town's system.

Mr. Adams asked about the number and location of the borings taken on the site. Mr. McKenzie said that they witnessed seven deep holes on the site. He said that they have not submitted the plans that show those locations but will do so in the next submission. He said that a geo-technical engineer was on the site and there was a boring rig there to evaluate the soil and the subsurface characteristics for the purpose of designing the building.

Dartagnan Brown, Embarc Studio, said that they prepared a boring location at each corner of the building, one at the northwest corner, north corner, northeast corner, south corner, at the entry to the courtyard, and on the opposite side of the courtyard. Mr. Adams said that is six borings.

Mr. Becker asked that the Applicant address water quality at some point. Mr. McKenzie said that they will address that in their next drainage report.

Mr. McKenzie said that the utility connections will be off of Linden Street. He said that they will attempt to use the existing sewer system to minimize the cuts within the Linden Street right of way.

Mr. McKenzie said that they are aware that there has been a request to determine the fire flow and the engineers are working on that. He said that they will work with the DPW on water pressures and flows within the system on Linden Street. He said that if DPW does not have that information, the Applicant will have to perform a fire flow test.

Mr. McKenzie said that the intent is to make revisions to the grading and drainage plan and work with the architects to take into consideration the recent testing that was done. He said that the revised hydrologic analysis will take into account the soil characteristics as determined by site specific soil testing. He said that they will provide the additional information that DPW is looking for with respect to water quality and addressing the 10 standards in the State Stormwater Management Regulations.

Mr. Seegel said that he was very concerned about the lack of information. He said that the Applicant rushed to get the application in but they were not ready. He said that they should had all of the plans and information with the application. He said that the Board has held two meetings and they have not been very productive, only because of a lack of information from the Applicant. He said that the Applicant had new information in December that should have been given to the Board. He said that the Board should have received updated plans. He said that the plans should show where the borings were and the results. He said that once the Board gets that information, it will have it peer reviewed. He said that the Applicant is delaying the process.

Victor Sheen, Manager, Delanson Realty Partners, LLC, said that their intention is not to confuse and delay. He said that they submitted materials thinking that tonight would be for architectural and landscape. He said that they completed the information and submitted materials prior to the submission date. He said that the focus tonight is different from what they anticipated. He said that they had expected the architectural review to be done in house versus hiring a consultant. Mr. Seegel said that when the last meeting ended, the Board said that it would review drainage and traffic at

tonight's hearing. He said that Mr. Sheen knows the time limits that the statute imposes on the Board. He said that the Board has received so little information that the clock should not start ticking for another month or two, perhaps, based on what the Applicant has actually given to the Board. He said that he is an attorney and has worked on 40B projects for 45 to 50 years. He said that the other Board members are an architect and an engineer.

Mr. Engler said that they thought that tonight's hearing would be for architectural review. He said that they did not get the material that the Board needs for the engineering review. He said that they are not trying to obfuscate, slow down, hide or delay. He said that they are happy to give an extension so that the Board does not come back and say that it does not have enough information. He said that they are willing to give a 30 to 45 day extension. Mr. Seegel said that the Board needs to get the material from the Applicant to determine that. Mr. Engler said that they are open to granting an extension. He said that they thought that they had submitted a full schematic package. He said that the Board has been requesting more information, which they will provide.

Mr. Adams said that the DPW report will confirm what Mr. Seegel said about not having enough information. He said that Mr. McKenzie mentioned in his presentation that stormwater runoff will be 30 percent less in the design. He said that the Board got nothing other than preliminary drawings with a not very well identified retention system. He said that the DPW is questioning whether the 30 percent reduction was based on general assumptions about soil conditions and capability of the retention system. He said that until Board has better information about both the soil conditions and the capability of the retention system, it cannot tell if there will be problems. He said that they may have to ask the town to allow them to overflow into the town's system.

Mr. McKenzie said that the soil testing that was done in mid-December corroborates the analysis that they had done for infiltration rates. He said that they did find some ledge that they need to account for in their design. He said that it will involve some minor modifications to the design. He said that will require revised grading plans and possible relocation of parts of the system. He said that generally the soil and groundwater conditions are consistent with what they assumed in the preliminary hydro analysis. He said that they prepared detailed hydrologic calculations and hydrocad analysis that models the pre and post development conditions. He said that they feel that the design plans that were submitted along with the hydrologic calculations meet the submission requirements to the Zoning Board for a 40B project. Mr. Seegel said that it may meet the requirements for the filing but it does not meet the requirements for the Board to be able to approve anything.

Mr. Becker said that the key feature of what was submitted is not that it is different from any other drainage analysis but that it is based on certain assumptions and the Board does not have the information to be able to test the assumptions. He said that it is the assumptions that take it from a chart for all of eastern Massachusetts for soil conditions to what is on this particular site, and from that the Board can conclude what the impacts from this particular site are. Mr. McKenzie said that the report will be revised in the very near future to take into consideration the site specific testing. Mr. Seegel said that the Board expects to have something that is close to what would be submitted to the Building Department. He said that this is a difficult site. He said that the difference in elevation goes from 200 feet to 157 feet at the street.

Mr. Hickey said that the Engineering Division prepared a couple of memos based on what they have seen so far. He said that their concern is that the site is very challenging, both from the topography as well as the overburden soils and the ledge, which is clearly visible. He said that assessment of that is critical to viability of the plan, even if it is not fully developed. He said that they need to see how stormwater and groundwater are managed. He said that if built at these numbers, it will be approximately 18,000 gallon/day of sewage contribution. He said that the town is still analyzing its

system. He said that it is a concern that they need to pay close attention to. He said that the Engineer pointed out that there will be a 30 percent reduction in peak flow. He said that there will also be a 30 percent increase in impervious area. He said that the reference decrease in peak runoff is related to all of the stormwater features are jammed in there. He said that the hardest working component of the system does not take runoff from the site. He said that it captures off-site runoff and helps in the way that models work when you analyze stormwater. He said that it is at the highest point. He said that it will exist entirely within excavated foundations, so the soils will be well disturbed. He said that there are questions about how well prepared and how compacted the soils are. He said that DPW is suspicious that the ledge may be close to bottom of it and affect its function. He said that it has no outlet. He said that it is designed to capture the 100-year runoff. He said that it is a fairly small drainage area. He questioned what will happen if there are frozen conditions or other conditions where runoff goes over terraced walls to the courtyard. He said that it does not seem very controlled. He said that a detention system should be accessible. He said that there should be maintenance features there that can be accessed. He said that this is walled off from the development.

Mr. Hickey said that there are two infiltration trenches on the north and west side that are quite deep. He said that the concern is that they might be in ledge. He said that the trench on the west side will be 15 to 18 feet below grade. He said that the ledge is probably three to four feet. He said that there will have to be a significant ledge cut and it will probably be more of a groundwater sink rather than an infiltration component. He said that he is suspicious that it will not work the way that is modeled. He said that the trench on the north side is likely to be in ledge, maybe a little less so. He said that there is a series of planters that are modeled on two sides of the property. He said that were not a lot of details about how they attenuate flood water. He said that the planters are often a water quality enhancement feature that capture surface water runoff and removing suspended solids. He said that it is not always modeled as a pond. He said that there is usually some other feature downstream that is more reliable for controlling stormwater. He said that the planters can be subject to a lot of maintenance. He said that they can freeze in the winter and clog. He said that they have a biological matter that is cleansing the stormwater. He said that you have to look at the infiltration rate as possibly being a limiting factor. He said that the town would rather see a treatment trained the other way around where the hardworking components are below the structure and easy to get to.

Mr. Hickey said that the town has concerns about construction management. He said that the building will be close to Hollis and Linden Streets. He said that Hollis Street is a 30 foot right of way with 20 feet of pavement and Linden Street is one lane in each direction. He said that it does not seem like there is a lot of room here to stage materials to be able to erect a building. He said that there is not a lot of room without impacting the public ways. He said that it raises a lot of concerns about public safety and nuisance related issues that come with construction that might be controlled better.

Mr. Hickey said that the town would like to have any information on the ledge. He said that they would like to know how much will be removed and what type of ledge excavation is likely.

Mr. Adams asked Mr. Hickey if he has any opinion about how many borings would be reasonable. Mr. Hickey said that it is less about the number and more about the coverage. He said that six is not bad. He said that it would be interesting to see a boring up on the hill by the basin to see how the water and ledge profiles are working. He said that may not be needed once they look at the results.

Mr. Seegel said that it is his understanding that the College Heights Association has a short video that it would like to show.

Anne Marie Towle, 7 Oakencroft Road, said that her property abuts the site. She said that she wanted to comment about the stormwater that they have seen coming off of Oakencroft Road. She displayed

an aerial map. She said that Oakencroft is an incline. She displayed on the map the drainage patterns. She said that the water drains to the low point on Oakencroft, which is at the corner of her house. She said that it drains down the side of her property to the Delanson property. She said that there is a small asphalt berm that runs along the front of the property line, so it keeps the water in the street before it runs down the side. She said that in July of 2014 the berm wore away. She said that she was home at the time of a 10 minute heavy rain storm. She said that the runoff was so significant that she videoed it. She said that she read that the basin would handle a 100-year storm but to a lay person living on the street, the amount of water that they see seems very, very significant.

Ms. Towle displayed a short video that showed rain water pouring down her stairs. She said that the berm has since been fixed. She said that water now runs to the end of the fence and then runs down the side of the property onto Delanson. She said that the Association wants to be sure that when the experts look at it, they take into consideration what the neighbors have experienced on the street.

Mr. Seegel said that the Board would refrain from taking comments at this hearing because there is not enough meat of the project to discuss.

Dan Hill, Esq., said that he is a Land Use Attorney representing the neighborhood. He said that he represents neighbors and abutters on 40B projects. He said that he reviewed the application and the materials that were submitted. He said that as he read the requested waivers, it struck him that this town's ZBL has good Site Plan Review and Special Permit review requirements including strong drainage review requirements and tree protection. He said that one of the most important parts of the 40B process is to review the waivers because the main function of the statute is to break down bylaws that could obstruct construction of affordable housing. He said that in weighing whether or not to waive the bylaws, the Board is charged with considering the threats to the public health, environment, safety, and planning. He said that if the threats outweigh the need for housing, the Board can deny a 40B project or it can impose conditions. He said that in looking at the materials submitted and hearing the presentation so far, stormwater is probably the biggest design issue facing this project. He said that he fully concurs with the comments that have been made. He said that it is surprising that this is a month and a half into the process and the drainage design is going to be changed. He said that soil tests were just done in December. He strongly urged the Board to take the offer that was made to extend the six months deadline because the Board is under a serious time crunch and every meeting and every month that goes by is detrimental to the town and the Zoning Board. He said that the Board should accept a month extension immediately.

Mr. Hill urged the Board to hire peer reviewer for specific issues. He said that the stormwater design is one of the most essential parts of the project. He said that soil conditions and hydrology are related to that. He said that a project of this complexity requires geo-technical peer review for hydrology as well as civil engineering. He strongly recommended that the Board have a person with that expertise brought on board as quickly as possible to participate in this process.

Mr. Hill said that noise and shadow impacts are major issues, given the size and density of the project and how close this project will be to the abutting properties. He said that the neighbors are also concerned about protection of trees along the property line that will be affected by construction as well as blasting and excavation to remove the ledge that is on the property.

Mr. Seegel said that the Board would like to take up Mr. Engler's offer of a 30 to 45 day extension. Mr. Engler said that he will submit that in writing for the Board's record.

Mr. Sheen said that they have some follow up to do based on comments from the town. He suggested for the February 15, 2018 hearing that traffic and parking be discussed on the same night. He

suggested that the Board and the Applicant allow the town engineers time to further discuss stormwater impacts and drainage issues. He asked that traffic and parking be discussed on February 15, 2018. Mr. Harrington said that the town can have its traffic consultant ready for February 15, 2018.

Mr. Adams asked if the Applicant will have information about the mechanical parking systems. He asked if the Applicant will have investigated and have a pretty good idea at that point which company will be used. Mr. Sheen said that they will submit the technical cut sheets for the systems. He said that Walker Consulting is the parking consultant for the town. He said that his parking consultant and traffic engineer and supplier have worked with Walker in the past on other projects.

Mr. Becker said that it would be helpful to have information about the target market, the demographics of the residents, and anticipated turnover because all of those things have roots that go into things like traffic and parking because the results of those studies assumes certain features of the residents of the building.

Mr. Seegel said that the hearing will be continued to February 15, 2018, at which time the Board will take up traffic and parking. He said that he would also like to have progress prints from the engineer of precisely where the borings were and what the results were.

Mr. Sheen asked if there is a proposed hearing date set for March 2018. Mr. Seegel said that the Board typically holds one to two hearings a month for special permits and large projects. He said that the Board has recently received a couple of applications for Site Plan Approval. He said that the meetings for Delanson are separate and apart from any of the other meetings.

Mr. Becker asked when the Applicant expects to have the CMP ready. He said that the impacts that have been discussed so far have been operational. He said that the other side of that coin is impacts during construction. He said that right now the Board does not really have anything on construction. Mr. Engler said that they will know that next month and will tell the Board when that is because that is something that will really flow from everything else. Mr. Brown said that they have typically hired VHB for CMP's. He asked whether that would be a conflict. Mr. Harrington said that it would be a conflict for the Applicant to VHB for its CMP.

Mr. Seegel said that the Board will tentatively schedule a continued hearing for March 15, 2018. Mr. Sheen said that will be a follow up for stormwater management and grading and drainage. Mr. Seegel said that will happen only if the materials are submitted to the Board at least two weeks before the hearing. He said that the Board also expects to receive one or two more 40B applications in the next few weeks. He said that the ones that produce materials will get moved along. He said that those that do not, will not. He said that it is a three member Board and cannot do more than two of these at a time.

Mr. Becker moved and Mr. Adams seconded the motion to continue the hearing to February 15, 2018. The Board voted unanimously to continue the hearing.

As there was no further business to come before the Board, the hearing was adjourned at 8:27 pm.

Respectfully submitted,

Lenore R. Mahoney  
Executive Secretary