

DATE: October 7, 2021
TIME: 3:06 PM

**TOWN OF BELMONT
ZONING BOARD OF APPEALS
MEETING MINUTES
July 12, 2021**

Present: Nick Iannuzzi, Chair; James Zarkadas, Vice Chair; Andrew Kelley; Teresa MacNutt; Casey Williams; Elliot Daniels

Absent: William Fick

Staff: Ara Yogurtian, Assistant Director, Community Development
David Lyons, Town Counsel
Ezra Glenn, Chapter 40B Specialist

1. CALL TO ORDER AT 7:00 PM

Mr. Iannuzzi called the meeting to order and introduced the Zoning Board of Appeals members. He noted the order of the meeting and explained the video conference process. Mr. Iannuzzi reviewed some housekeeping items:

- He asked Board members to respond to Mr. Yogurtian directly if they needed to RSVP to a meeting.
- He suggested meetings on July 19 (regular business), July 26 (live meeting to allow neighbors to come out in person in the Homer Building, only 50 people) and August 2, 2021. Board members were in favor of the open in person meeting.
- Mr. Lyons explained the 40B application closing process. He noted that once the hearing closes on August 2, 2021 the Board will take a vote and direct Town Staff to draft the decision and standard conditions. The Board would meet once or twice to review the decision before voting on it within 40 days of the hearing closing date.

2. CONTINUED CASES:

- a. CASE NO. 21-01 – COMPREHENSIVE PERMIT
91 Beatrice Circle (SRA) – 91 Beatrice Circle, LLC, Stephen A. Tamposi, Manager

Atty. Schomer, representing the applicant, noted that the changes since the last meeting as:

- The rear row of five townhouses has incorporated the third story living within the structure of the roof to reduce height of the building
- The layout has been pushed closer to Beatrice Circle and away from the neighbors to the rear and to the west
- Eliminated the second-floor rear decks
- Added bicycle storage

- Added a parking space
- Added more details to the landscaping plan and the architecture plan
- Outdoor lighting plan has been provided
- Civil site plans - layout subsurface drainage structure was brought to the outside of the ten-foot setback of the building foundation
- More details about removal of the ledge under the site
- More information provided regarding Frontage Road and ownership details
- Updated waiver list was submitted – they had withdrawn a number of waivers

Tim Loranger, Embarc, representing the applicant, noted the changes and details added as:

- Reduction of scale of townhouses
- Reviewed the proposed cladding materials
- Maintained small patio spaces on the ground level
- Dropped the roof of the townhouses by one foot
- Added a fence at the top of the retaining wall
- Added an additional parking space (tandem space at end unit)
- Relocated shared patio space behind the bike paths – a space for grilling
- Reviewed programmed outdoor spaces
- Screening and retaining walls to screen headlights from the east, screening for dumpster/trash at drive aisle
- Condensers remain at the rear units – each manufacturer offers quiet units
- Increased setback at front townhouses (from 24 feet to 26 feet)
- Water sprinkler entry was relocated to have less impact on tree
- Third floor plan reconfigured living space was now within the dormers
- Added small fence to retaining wall (42” wood slat fence for safety and aesthetics)
- Reviewed an animated shadow study showing shadows at 1-hour intervals throughout the day for all seasons

Blair Hines, Landscape Architect, Verdant, representing the applicant, reviewed details of the landscape plan and the sight lighting. He noted the two objectives of the landscape plan were to mitigate impact of development on the neighbors and to create a pleasant living space. Key elements of change were noted as:

- Preservation of large trees, helps development to feel smaller
- Evergreens planting along west and south property lines are small trees and not small shrubs (arborvitaes of two different types), this could be modified to please the Board if necessary
- Residential living shared patio spaces
- Shrubs in areas along parking court and entry walkway, plantings and shade trees along the parking

- Car head lights on east edge will be blocked by the landscaping and taller fencing if requested
- Reviewed the site lighting and noted limited light spillage as the plan will include down facing sconces and step lights to light the treads to see the steps. Wall mounted lights along the walkway that goes out to the highway. Parking court will have low light and patio will have residential scale sconces. The pole lights will be 8-10' max in height but not have a lot of glare. Everything is dark sky compliant.

Cliff Boehmer, peer reviewer for the Town of Belmont, reviewed his letter from July 11, 2021. The main points of the letter were:

- He thought the developer was very receptive and made important changes: Consolidation of the buildings to make more green spaces, turning the townhouses to make them 2.5 stories and made the building more into scale within the existing context, the level of documentation has improved and everything they have asked for has been provided.
- There were still some issues between civil, architectural and landscape drawings.
- The materials were still not consistent across the documents.
- Sight lighting may impact house on the east.
- Bike rack for the visitors who visit the site should be included.
- Compressors and sound levels were an issue.
- Changed single family to multifamily, now all buildings will all be protected by sprinkler system
- The building elevations must indicate material and location of materials.

Jim Burke, Civil Engineer, noted that the plans were solid at this point. He reviewed the utility plan and noted some of the small changes that were made. He noted that this project benefits the existing infrastructure significantly. Water flow to the neighbors will increase. He reviewed the ledge removal plan.

Jesse Johnson, described his concern about the bathtub effect and explained how the proper solution could be included as a condition so that it was done properly, they needed to remove more ledge. He noted his concerns as: the runoff going toward frontage road will need to be recalculated and the retaining wall must be substantial enough so that it is not compromised. A structural engineer should submit a retaining wall design prior to excavation that assumes worse case conditions.

Mr. Yogurtian explained how the condition would work, to have a condition approved by Weston and Sampson prior to Community Develop office acceptance of the stormwater management system if Atty. Schomer agreed to it. If anything changed upon inspection, the engineers would get involved and it would be approved at the end.

Mr. Nelson noted that the conditions could leave technical things up for future review and approval.

Ms. Williams noted she was concerned about the cost of the engineering disagreement.

Atty. Lyons noted that the condition for post approval monitoring with Weston and Sampson says that the two factors to consider are 1. Environmental-health-safety-planning and open space concerns with the design and 2. Whether those conditions imposed are going to make the project uneconomic to the developer.

Atty. Schomer noted that the waiver for the local stormwater by-law was withdrawn. They would go through the stormwater permitting process after the ZBA review. The Board could state who would do the peer review.

Mr. Yogurtian noted that the system must be strong enough for heavy fire trucks. He would like to see a design with calculations to make sure it will hold the load.

Mr. Iannuzzi asked the applicant to bring pictures of trees and cladding materials to the next public hearing.

Robert Michaud, MDM Traffic Consultants, described the proposed overflow parking plan. He noted that 85 percent of the time there will be an excess of at least 3-5 spaces on the site at this time. If there is a special event, residents will not have the parking availability on the site. They would need to have a visitor pass reserved for the extra space. Renters would need to use discretion, use carpools, or get dropped off or have larger events off-site. He added that the number of proposed parking spaces exceeds the number of spaces required by national standards.

Mr. Iannuzzi and Mr. Zarkadas noted that they were not satisfied with the parking plan for overflow parking. Mr. Kelly pointed out that there was no parking on the Frontage Road and they will park on outlying streets and it will be dangerous to walk along Frontage Road. Atty. Schomer noted that there was parking along Park Avenue.

Mr. Lyons reviewed the waiver list. He noted that the waivers were to be either approved, approved with conditions, or denied. If to deny one of the waivers or impose a condition, if it made the project uneconomical that those waivers could be struck on appeal by the Housing Appeals Committee if the applicant were to appeal the decision. He suggested that the Board consider this application as it is or if they believe that reducing the number of units to solve some of the issues. If they ask to reduce the number of units, they may not be able to comply if they could prove that they the project is no longer economic. This is the case with any of the conditions that may be imposed. 25 percent of the units have to be affordable and every building that they do not build would make it less economic for them as the market rate units subsidize the affordable units. There is a standard that they need to meet to

demonstrate whether any of the conditions imposed would render the project uneconomic.

Mr. Iannuzzi asked for comments from the Board.

Mr. Zarkadas noted that Atty. Lyons brought up many good points. A reduction in units makes sense. Lot coverage was unacceptable.

Ms. MacNutt noted that the reduction of units probably has merit.

Mr. Kelley noted that if they could make it economic with fewer units he would be interested in learning.

Mr. Iannuzzi noted that he would be more comfortable with 8-10 units.

Ms. Williams noted that parking, the massing and the size in comparison with the neighborhood were issues for her. She suggested an increase in the open space for the children in the development and she thought that the balance of these factors was important.

Mr. Daniels agreed that the size of the project was too large and things should be reconsidered.

Mr. Glenn noted that in terms of processing the decision, the Board should address the issues rather than the number of units. Focus on more parking, more open space, etc. and then decide how many of the units need to be removed to solve the problems.

Atty. Schomer noted that they worked hard with the peer reviewers the primary considerations for the Board to take into account in rendering a decision with regards to the issues regarding massing, size and height and whether these increases as to compare to what is normally allowed through the Town's zoning code, whether considerations are adequately mitigated through design changes. The issues that were raised by the peer reviewers, neighbors and Board members had been addressed. They have done the best that they can to prove to the Board that the project as proposed is acceptable.

Max Colice, 22 Garfield Rd., commented on how one would determine the economic conditions and how the developer charges a fee and makes money by renting the units. He noted that it is not as straightforward to determine the economic feasibility.

Atty. Hill, representing the neighbors, came before the Board and noted that he was concerned with:

- The economic analysis can be argued by the developer but it is not the final word. An economics consultant could rebut this evidence and it shifts the burden to the ZBA.

- The stability of the retaining wall on the east side of the property
- There is no ability for any Board or official to engage in a subsequent permitting process after the 40B permit has been issued. Every local decision has to be done prior to the permit issuance. There is no subsequent review process allowed.
- If the applicant appeals the ZBA decision to the Housing Appeals Committee, it will challenge those conditions and those conditions will be stricken by the HAC
- The noise level includes the ambient noise and it cannot be any more than 45 decibels. The air conditioner units are still located at the rear end of the property and they could be placed elsewhere.
- The windows at the rear of the building that face the adjacent properties
- The question is the intensity of the use of the site and lot coverage
- The ledge is impermeable and water may not infiltrate. Is this model proper.

Mr. Johnson explained the water infiltration system.

Mr. Lyons commented on the control of the road and the stormwater infrastructure. He noted that his opinion was that the developer had sufficient property rights to develop the project.

Atty. Schomer responded to the legal issue that Mr. Hill raised about post permitting review and he would like to issue his interpretation to Mr. Lyons and Mr. Glenn. He noted that the Town absolutely has permitting authority after the ZBA issues their decision. On the issue of the stormwater review there is a permitting process and they will comply with the by-law.

Mr. Iannuzzi opened up the meeting for public comments:

Max Colice, 22 Garfield Rd., noted that the developers proposed hammering the ledge instead of blasting. Hammering is very loud and whoever lives next to the hammering will have everything shake.

Mr. Johnson noted that it would be hammering and it would take about 1-3 weeks to do 750 yards. The ledge may be soft and it may take less time.

Mr. Yogurtian noted that the noise by-law limitations for hammering are 85 decibels at the property line. Blasting permits are issued by the state. The Department of Community Services does not have the ability to regulate these means and methods.

Mr. and Ms. Stapp-Boardman, 75 Beatrice Rd., noted that they were concerned about the parking and practical limitations of the site but other issues like space for things like deliveries. Visitors will park in the channel in front of the two buildings in the fire lane. The snow and ice on the access road and there is no sidewalk because it is covered by the snow and ice and where will the children and walkers go.

Mr. and Mrs. Kleppner, 19 Beatrice Circle, noted that they were worried about pedestrians crossing the access road and the short length of sidewalk on the northside of the access road and that requires narrowing the access road and it needs State approval. He is concerned about pedestrian crossing and a flashing light may not be seen by fast driving car. Pushbutton controlled stop light would be the best way to control the traffic here.

Kathleen Cohain, 19 Rutledge Road, Town Meeting Member Precinct 2, noted that traffic is a significant issue in this area. If there are parking spaces there are no more than five in a troubled area. There have been two proposals to redesign that area. The health and safety issues of this project has significant issues.

Val Devine, 37 Beatrice Circle, noted that all of the south facing units face her house. Five air conditioning units will face her house, the landscaping on the back 20 arborvitaes will only grow to 15 feet height, this will not be tall enough to screen the 40-foot roof structure. It would take 16 years to grow to 15-foot height. Some other type of setback would be more appropriate. Lot coverage should be measured by someone by the Town, the maps are showing green space to the east is completely unusable and the road is not owned by the developer and cannot be counted towards their green space. She disagrees that the three-story structure was better as it towers over her home in the back. There would be 47 windows and 5 doors opening towards her house. She preferred the two single family design better.

Chris and Sam Alexander, 43 Beatrice Circle, noted that they are concerned about the noise volume as it relates to children playing outside.

Darlene Chisholm, 20 Beatrice Circle, noted that the BSC report has not demonstrated that the sightline for drivers meets the national standards for safety. Her concerns were outlined in detail in a letter that she had submitted. She noted her general concerns were:

- The SSD math computation was incorrect.
- There was conflicting information regarding the available sight distance
- She asked for the Board to ask for an additional peer review to determine available sight distance, compute the associated road grade and provide full documentation for both assessments.
- She stated that these national standards must be satisfied and she urged the Board to withhold approval until these standards are met

Val Devine, neighbor, asked to see a sample of the fence at the next meeting. She noted that she wasn't happy about the barbeque location on the patio area, it was not a good idea. The southeast corner was designated as a location for snow and she wants to know how they will keep salt and chemicals from dissipating into the neighbor's yard.

Mr. Loranger noted that this was a shared grilling patio space. Not a party space.

Mr. Iannuzzi noted that they would address the snow melt issue at the next hearing.

Mr. Glenn encouraged the public to review the latest peer reviewer reviews that are on the website.

Mr. Iannuzzi reminded everyone to have their materials in early enough.

MOTION to continue to July 26, 2021 was made by Mr. Iannuzzi and seconded by Ms. MacNutt. Motion passed.

Roll call:

YES VOTES-

A. Kelley

C. Williams

J. Zarkadas

N. Iannuzzi

E. Daniels

- b. CASE NO. 21-15 – TWO VARIANCES AND ONE SPECIAL PERMIT
24 Stults Road (SRC) – Marc and Kristen Becker

Mr. Iannuzzi noted that this was revised for two special permits – one for rear set back and one for lot coverage.

The applicant noted that the plans were revised and the scope was reduced and they had decided to take down part of the garage and by extending the porch and they would not need a variance any longer.

MOTION to approve was made by Mr. Iannuzzi and seconded by Ms. Williams. Motion passed.

Roll call:

YES VOTES-

E. Daniels

J. Zarkadas

C. Williams

N. Iannuzzi

3. ADJOURN 10:25 PM