



Zachary Caron, Chairman
Gregory Logan, Vice Chairman
Jonathan Gale, Clerk
Susan Gray Pritchard, Member
David Phillips, Member
Alys Vincent, Member

RECEIVED

ZONING BOARD OF APPEALS
Regular Meeting /Public Hearing

JUL 26 2023

Tuesday, June 27, 2023, 2023

Old Town Hall

1111 Somerset Ave, Dighton, MA 02715

Time: 9:32am

By: (Signature)

Video and audio of the meeting is available to watch on Comcast Local TV9 or on the Town of Dighton Planning & Land Use YouTube Channel.

Meeting was called to order by Chairman Zachary Caron at 7:21 PM. Clerk Jonathan Gale attended via ZOOM. Member Aly Vincent was absent.

The Pledge of Allegiance was recited.

The Board formally introduced themselves and determined the next meeting will be 7:00 PM, Tuesday, July 25, 2023.

PUBLIC HEARING: Stonegate Landing, LLC, Westerly Side of Somerset Ave (Map 9), Modification of Comprehensive Permit Case #0-23

Voting members: Zachary Caron, Susan Gray Pritchard and David Phillips.

Chairman Zachary Caron opened the public hearing. Vice Chairman Gregory Logan recused himself from the matter.

Richard Federoff of Stonegate Landing, LLC seeks to request a modification to the Comprehensive Permit as follows:

- Transfer of Phase B, of the Comprehensive Permit to a separate entity (Able Landing, LLC). Phase A has seven (7) lots remaining (5 market rate, 2 affordable units) left for completion.
- Submittal of proposed new architectural home plans (from 2-bedroom to 3-bedroom homes).
- Separation of liability between Phase A and Phase B.

Mr. Federoff appeared before the Board to provide a monthly status update noting the following:

- Mr. Federoff has been monitoring individuals entering the development from Somerset Avenue/Route 138, advising those that it is not allowed. Three speed bumps and signs have been installed and Mr. Federoff has noticed a significant drop.
- Playground: improvements to tables/benches and weeding, arranging an equipment inspection with the insurance company, Parks & Recreation Commission and Building Commissioner, and anticipates the playground to be opened in July.
- A site visit is scheduled for Thursday, July 6, 2023 at 9:30 AM with the Mr. Federoff, Highway Superintendent Thomas Ferry and Shahin Shahin, PE of Green International Affiliates, Inc. to review the infrastructure constructed in the development, including but not limited to the roadway, detention/retention basins, and grading for each lot, as well as, the water issues that exist at 947 Stonegate Landing and 531 Eagle Terrace.

The Board read Attorney Lorraine Rossi's email dated June 27, 2023 into record requesting that the matter be withdrawn without prejudice until Mr. Federoff has completed Phase A.

Susan Gray Pritchard motioned, David Phillips seconded to withdraw without prejudice the Stonegate Landing, LLC Modification of Comprehensive Permit Application.

VOTE:	ZACHARY CARON, CHAIRMAN	AYE
	SUSAN GRAY PRITCHARD, MEMBER	AYE
	DAVID PHILLIPS, MEMBER	AYE

It was noted that Mr. Federoff will continue to appear before the Board monthly to provide a status update.

PUBLIC HEARING: Ferreira Development Group, LLC, 90 Center St (Map 13, Lot 51), Special Permit Application

Voting Members: Zachary Caron, Gregory Logan and Jonathan Gale

Chairman Zachary Caron opened the public hearing and the public notice was read into record.

Attorney Robert D. Fredericks of 1544 Somerset Avenue, Dighton, MA representing the Applicant Steven A. Ferreira of Ferreira Development Group, LLC appeared before the Board seeking a Special Permit pursuant to Section(s) 2420, 2422, 2430, 2432 and 2460 to convert a formerly used nursing home into an apartment building containing nine (9) single bedroom units and convert the garage into a one two (2) bedroom apartment. Mr. Ferreira is an established developer for 28 years, owns approximately 45 rental units consisting of 15 buildings and a number of commercial properties, including the building that houses the Taunton Area Chamber of Commerce office. Mr. Ferreira has full-time maintenance crews, landscapers, licensed sub-contractors, as well as, Mr. Ferreira is a licensed contractor. In the past, Mr. Ferreira has done special projects such as sober houses in Freetown/Lakeville. The property, formerly known as the Dighton Nursing Home consisted of 30 beds, was a non-conforming structure in a residential zone with a well-engineered septic system designed way over capacity for the proposed use. Mr. Ferreira purchased the property through foreclosure after it was closed in July 2019 resulting in paying the Town an estimated \$80,000 in back taxes, as well as, currently paying commercial rate taxes. Since that time, Mr. Ferreira has been investigating different applicable uses for the property and meet the needs of the community. It is through this investigation that Mr. Ferreira determined that the proposed (mainly) one bedroom apartment building would meet the needs of housing, as well as, minimize the impact of Town services, including the Dighton school system, utilities and emergency services. It should also be noted that the MTA railway communities is requiring apartments in communities and this project would help. It is of the opinion of Atty. Fredericks that the proposed special permit application will not be substantially more detrimental than the prior existing use to the neighborhood. Mr. Ferreira's wants to work with the abutters and welcome questions, concerns or comments. It should be noted that the apartments will be market rate units and potential residents will have background and credit checks done. In response to Section 2460 Abandonment or Non-Use, Attorney Fredericks notes case law Derby Refining Co v. Chelsea that addresses the abandonment issue results from two concurring factors: 1) he intent to abandon and 2) voluntary conduct, whether affirmative or negative. Attorney Frederick's would argue that the Board is well within its right and discretion to conclude that the property owners never had any intent to abandon the use.

The Board looked for clarification of the proposed 2-bedroom unit within the garage, noted the plans show three 2-bedroom apartments within the main building, plans for parking and electrical metering, whether the building and some units will be handicap accessible, whether construction has started, inquired on the maximum number of occupants within the units, if the septic system is adequate to support the proposed project, will storage space be available for the tenants and where will the trash be located. Lastly, the Board inquired on the hardship relative to Section 2460 Abandonment or Non-Use.

John Crawford, 1022 Center Street, asked if the special permit is granted what is to stop the Applicant from increasing the size of the building. It was explained that because the structure itself is non-conforming, so the Applicant cannot expand the structure any more than it currently is. It was noted if needed, a condition could be placed.

Melissa Perry, 1211 Pine Street, expressed concern about the “clientele”. The Applicant noted that the units will be market rate units, potential renters will have background and credit checks, provide a one-year lease and there is no plans for Section 8 clientele.

Daniel Furtado, 896 Center Street, expressed concern about traffic, asked for parking to be relocated to the back, inquired if this is a 40B project or an age restriction project (55+). It was explained that it is not a 40B project, no age restriction will be placed and parking relocation will be explored. Mr. Furtado does not object to the proposed project.

Jaqueline Olivera, 923 Center Street, noted that she is a direct abutter to the property and requested a fence be placed along the property line, the parking be relocated to the back of the property and construction be done during normal business hours.

Cori McCartney, 863 Center Street, inquired on the parking, noted that she does not object to the project but respectfully requests that the trees remain and screen potential renters. The Applicant assured Ms. McCartney that there are no plans for tree removal.

Brian Strange, 876 Center Street, inquired why a business was not being considered. It was explained that because it is a non-conforming structure, the Applicant is legally restricted on what he can do with the property. Mr. Strange does not object to the project but requests that parking be relocated to the rear of the property to avoid automobile lights shining in his home.

Maryanne Souza, 55 Center Street, wanted to know what type of assurance can the abutters have that the Applicant won't come back and request a change seeking to rent to 55+ or lower income units. The Applicant does not think that due to the demand of housing/apartments in Dighton, the Applicant will not be seeking such a request.

The following departmental comment(s) was read into record: Sewer Department email dated June 8, 2023 stating that sewer is not provided at this property and the Board of Health email dated June 6, 2023 stating that the license with the Board of Health expired on July 31, 2019.

Attorney Marguerite Mitchell for the Zoning Board of Appeals noted that a legal brief will be needed from Attorney Fredericks relative to Section 2460 Abandonment or Non-Use. It was confirmed that

the existing non-conformities are not going to change.

It was determined that the Applicant will provide the following information for the next meeting:

- Updated construction plans reflecting the correct bedrooms, units that would be handicap accessible, relocation of the parking, fencing plans, storage area for the tenants and confined trash area
- Legal brief relative to the Section 2460 Abandonment or Non-Use
- Input from the Fire Chief and Building Commissioner

Zachary Caron motioned, Gregory Logan seconded to continue the matter to July 25, 2023.

VOTE:	ZACHARY CARON, CHAIRMAN	AYE
	GREGORY LOGAN, VICE CHAIRMAN	AYE
	JONATHAN GALE, CLERK	AYE

REVIEW/DISCUSS/ACT: Dighton Homes, LLC, for Dighton Woods Subdivision re: Release of Funds under the Performance Agreement

Voting Members: Zachary Caron, Susan Gray Pritchard and David Phillips

Attorney Mayara J. Cordeiro of Madoff & Khoury, LLP representing the Applicant Dighton Homes, LLC appeared before the Board to provide a status update. Attorney Cordeiro noted that Dighton Woods, LLC turned the association over in 2018 and completed the subdivision in September 2021. There appears to be a discrepancy on the expiration of the Groundwater Discharge Permit that was issued in 2012. On the cover it says January 31, 2017, in language within the body of the permit it states 15 years and there is an email from Margaret Sullivan of the DEP stating May 8, 2022. Attorney Cordeiro contacted a board member of the Homeowner Association, Jason White, and he confirmed that they intend to hire BDO Engineers to apply for the permit renewal. The Treasurer of the Association is finalizing the balance sheet (\$45,000) for the maintenance of the system.

Attorney Marguerite Mitchell for the Zoning Board noted that the Board has two options before them: 1) since more information is required, release all but \$5,000; or 2) hold on the release until all information is received then the Board can release the funds in its entirety. Attorney Mitchell thanked Attorney Cordeiro for the update, however, all supporting documents relative to today's statements must be received. It was suggested that a letter could be sent to the Trustees of the Homeowners Association to appear before the Board, however, the burden is on Dighton Homes, LLC since they are the one who is asking for the release of funds. Lastly, Attorney Mitchell advised that an alternate draft amendment should be provided to cover the full release, should all the requested information be received and all monies can be released.

David Phillips motioned, Susan Gray Pritchard seconded to continue Dighton Woods to August 22, 2023.

VOTE:	ZACHARY CARON, CHAIRMAN	AYE
	DAVID PHILLIPS, MEMBER	AYE
	SUSAN GRAY PRITCHARD, MEMBER	AYE

PUBLIC INPUT

None.

CORRESPONDENCE

None.

Approval of Meeting Minutes

David Phillips motioned, Susan Gray Pritchard seconded to approve the meeting minutes of May 30, 2023.

VOTE:	ZACHARY CARON, CHAIRMAN	AYE
	GREGORY LOGAN, VICE CHAIRMAN	AYE
	JONATHAN GALE, CLERK	AYE
	SUSAN GRAY PRITCHARD, MEMBER	AYE
	DAVID PHILLIPS, MEMBER	AYE

Adjournment

Gregory Logan motioned, Susan Gray Pritchard seconded to adjourn at 9:04 PM.

VOTE:	ZACHARY CARON, CHAIRMAN	AYE
	GREGORY LOGAN, VICE CHAIRMAN	AYE
	JONATHAN GALE, CLERK	AYE
	SUSAN GRAY PRITCHARD, MEMBER	AYE
	DAVID PHILLIPS, MEMBER	AYE

Respectfully submitted,
Kerrie J Easterday Office Manager
Planning Board & Zoning Board of Appeals

List of Documents Presented: