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**MINUTES OF THE MEETING OF THE BOARD OF APPEALS
BURLINGTON, MA**

~~March 1, 2022~~ February 1, 2022

Chairman Michael Murray, Jr. called the meeting of the Burlington Board of Appeals to order at 7:30 p.m. The meeting was held in the Main Town Hall Meeting Room, 2nd Floor, 29 Center Street, Burlington and on Webex.

Present: Chairman: Michael Murray, Jr, Vice Chairman: Charles Viveiros, Mark Burke, Jeremy Harrington and Jeffrey DiBonaJoe Currier and John Sullivan

Chairman Murray stated the applicant was looking to combine the applications for Mountain Road and Richardson Road. Motion made and seconded to combine the two applications together. Roll Call 5-0 in favor

20-21

Continued Hearing

35 Mountain Rd

The petition of Winn View Heights II, LLC for property located at 35 Mountain Road, Burlington, MA 01803, shown on the Burlington Assessor's records as the following Book-Page# 12319-229 Map and Parcel reference: 49-82-0. The applicant is seeking a Comprehensive Permit through the Massachusetts Local Initiative Program (LIP) pursuant to MGL ch. 40B, Section 21. The proposal is to construct a single building containing 24 condominium units and all units will be age (55+) restricted. All the units will have 2 bedrooms and 2 bathrooms. Six of the 24 units will be reserved for households earnings up to 80% of the median income.

21-6

Continued Hearing

Richardson Rd

The petition of John Hussey Jr. and Denise Hussey for property located at Richardson Road, Burlington, MA 01803, as shown on Book-Page # 35890-128, Map 43C- 20-35 of the Assessor's Maps of Burlington, to obtain an amendment from the Board of Appeals to amend the site plan and any applicable conditions or restrictions granted or set forth in the 2002 Comprehensive Permit regarding Winnview Heights Condominium.

Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (application #21-6).

Attorney Murphy reintroduced himself along with Gary Litchfield and Jack Hussey and provided an update on the project. He continued by speaking about the easement issues. He explained it was up to the Board to determine if it went to the heart of the matter. It is a gray area, and land court should be making the decisions. Attorney Murphy stated he previously spoke with the Select Board, and they felt the 40B would address the need for affordable housing and be a benefit to the community. He added he felt the Board should be focusing on the Comprehensive Permit only, because the easement will go to the Land Court to determine the legal definitions and findings.

Attorney Brian Winner, Town Council provided a response to Attorney Bobrowski's letter and stated the role of the Board needs to decide if it is the heart of the matter and decide on all the issues such as safety.

Chairman Murray read a letter of opposition from Alfonso Liu, 11 Richardson Road was read into record.

Mr. Burke questioned if the applicant was looking to have the Board decide on the project before the access. he believed the Board cannot vote on the development before the access is granted. He stated the opposition from the

abutters and the Board are not experts and believed it should go to Land Court. Attorney Murphy someone would have to appeal the decision to go to Land Court. (Declaratory Judgement)

Mr. Viveiros stated he thought they were getting a judgement on the access and would like to see if they have right to access. Attorney Murphy stated he feels they have the right of access.

Mr. Murray stated feels access to the site is in question, in his opinion, it does go to the heart of the matter. The Board either needs to Made a decision or the applicant will request to withdraw without prejudice.

Public hearing open

Diane Downs, 12 Richardson Road, stated her deed doesn't permit access and if the project goes through, she is willing to contest in court.

Donna Frank expressed her concerns about safety traffic and the impact it will have on the residents.

Matt Gaines, representator for Winn View Condo Association. stated he disagrees with the applicant's view on the access. There is no access and without access they can't get to the project. He stated the second application has many hurdles and he doesn't feel the applicant can satisfy them. He added the 2003 easement would need to amend the previous site plan and ZBA cannot declare the easement is valid.

Ken Howes from Winn Heights Association state he believes there is legal right and practical for access. Builder should have allowed enough space for snow removal and safety concerns

Mr. Burke pointed out there are still many hurtles to get through and he believed the applications should be withdrawn,

Mr. Viveiros stated he agrees it should be withdrawn, if it is not withdrawn, we need to make a decision. Mr. Murray stated it is a question the Board cannot answer.

Attorney Murphy stated he agreed and would withdraw without Prejudice but asked if they were to come back in the future of the fee of \$5,000 could be waived. Mr. Murray stated he could waive the fee.

Motion made and seconded to close the public hearing. Roll call 5-0 in favor Motion made and seconded to withdraw without prejudice the application for 35 Mountain Road. Roll Call 5-0 in favor Motion made and seconded to withdraw without prejudice the application for Richardson Ro

Continued Hearing

21-35

Wegman's

The petition of Volta Charging, LLC (Volta) in care of Wegman's Food Market, Inc for property located at 53 Third Avenue, Burlington, MA 01803, as shown on the Burlington Assessor's records, Map and Parcel reference: 45-11-0. The application is seeking a Special Sign Permit pursuant to Article 7 Section 3 of the Town of Burlington, Northwest Park

Planned Development District Zoning Provisions (the "Provisions") for the installation of three electric vehicle charging stations with digital advertising signs. The Special Sign Permit is being requested because the Provisions require that signs in the district must comply with Article XIV Section 3.2 of the General Bylaws, and in this case the proposed Volta signs may violate the following:

3.2.4.2 Flashing and computerized electronic signs are prohibited

3.2.4.6 No moving signs are permitted

Documentation in support of this proposal is available for public inspection as shown on plans filed with the Zoning Board of Appeals a copy of which is on file with the Town Clerk's office and on the Board of Appeals website (Application #21-35).

Michael Dalton introduced himself from brownrudnick, representing the client, and Michael Herschberg from Volta. Mr. Dalton gave an overview of the proposed charging stations, explaining because of the use of advertising, there will

be no charge for the customers to use. He described the locations as being in the interior of the garage and the advertising is targeting pedestrian traffic. He explained the screen would be stationary for 8 seconds. Mr. Dalton stated he needed a Special Sign Permit due to PDD Northwest regulations. Charging stations were not contemplated at the time the PDD was written, therefore it needs to be modified or amended.

Mr. DiBona asked when does it not become a T.V. and was informed there is no sound or video.

Mr. Burke reviewed photos of the locations, and questioned if there were 2 units already there. He was told there were 2 units put in 2019, The permits were issued without coming in front of the Board. An explanation of the chargers and media stations was provided.

Mr. Sullivan stated he didn't have any concerns; those electric cars are the way of the future. He asked about the lumens and if they are on continuously. Mr. Dalton stated they could meet the requirement for lumens and the PDD requires them to be off and will put it on a timer.

Mr. Murray asked if the 8 seconds time could be adjusted and was informed 8 seconds was the optimal maximum time. He questioned if there were any restrictions on ads and was informed by Mr. Hershburg that there would be no political or explicit sexual advertising.

Open to the public.

Mr. Tyresse Bryant introduced himself stating he was representing Wegman's and they support the project. He explained there is no investment for Wegman's and it benefits their customers. He stated there is a Master Agreement with Wegman's that requires only high standard advertising.

Motion made and seconded to close the public hearing. 5-0 in favor

Mr. DiBona questioned if 1/2 of the advertising could be Burlington based. Mr. Herschberg responded it would be difficult, but he would make a good faith effort to put up public announcement, town events etc. Mr. Harrington stated he felt there should not have sound and agreed they should be off between 12:00 to 6:00.

Motion made and seconded to approve the Special Sign Permit for the installation of three electric vehicle charging stations with digital advertising. With the conditions illumination is not to exceed 90 lumens per square foot, no sound or video, turned off between 12-6: on Am and to comply with the high standards of Wegman's master agreement. 5 -0 in favor

New Hearing
28 Harriett Ave
22-1

Attorney Murphy stated he was representing the applicant Claude and Jean Valle who is looking to construct a garage. Attorney Muphy pointed out when the lot was created, the lots were much smaller than today's lots, therefore, the applicant requires a variance. He reviewed the hardships explaining there is a fence for screening, and it is forty-five feet to the nearest structure. He added the addition would not be a detriment to the public good, nullify or substantially derogate from the intent of the bylaw. He stated he has a letter from neighbors in support of the garage.

Mr. Sullivan asked if it could be moved over ten feet on the right and was informed that would make it too difficult for them to access, plus it would be too close to the patio.

Mr. Viveiros questioned if it would be parallel to neighbors shed and was told yes.

Mr. Sullivan stated there are trees in between the property and a vinyl fence, he asked if there would be storage about the floor and was told not.

Mr. Murray asked why it was not attached and was informed it was a prefab (Reed Ferry's Shed) and they couldn't afford to go any other way.

Open to public:

Mr. Carl Christiansen from 26 Wildmere, stated he lives next to him, and it is a win for everyone

Mr. Dan

Harrington from 23 Harriet Ave stated he was in favor and that the property has never looked better.

Motion made and seconded to close the Public Hearing. 5-0 in favor

Mr. Murray confirmed it was a single-story garage Mr. DiBona asked about the foundation and was informed it would be a cement pad.

Motion made and seconded to approve the variance for the construction of the garage. 5-0 in favor.

Minutes from January 18, 2022 Motion made and seconded to accept the minutes. 5-0 in favor

Adjourn Motion made and seconded to adjourn. 5-0 in favor

