

STATE HOUSING APPEALS BOARD

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Minutes of the November 29, 2004 Board Meeting

The November 29, 2004 meeting of the State Housing Appeals Board (“SHAB” or “Board”) was called to order at 2:20 PM in the Council Chambers at Pawtucket City Hall, 137 Roosevelt Avenue, Pawtucket, Rhode Island by Judge Stephen Erickson, Chair. Board members in attendance were Judge Stephen Erickson, Donald Goodrich, Charles Maynard, Michael Milito (designee of Richard Godfrey), Steve Ostiguy, and Dr. Isadore Ramos. Board members Frank Giorgio III, Thomas Hodge, and John O’Brien were not present. Also present were Steven Richard, Esq. and William Dolan, Esq., legal counsel to the Board, and Judy Jones, Katherine Maxwell, and Christine DaRocha, administrative staff to the Board. With six members present, Judge Erickson declared a quorum.

Judge Erickson referenced a letter from Richard Godfrey appointing Michael Milito as his designee at the November 29, 2004 Board meeting.

Judge Erickson announced that the next meeting of the Board to rule on the substantial completeness of comprehensive permit applications will be on Wednesday, December 8 from 9:00 am to 3:00 pm at Rhode Island Housing, 44 Washington Street, Providence, RI.

Mr. Richard said that in preparation for the December 8th meeting, the Board was given the transcripts from the November 8th and November 15th Board meetings today. Transcripts from the November 22 meeting and today's meeting will be sent to Board members as soon as they are received. Staff will be reviewing the applications and will provide Board members with individual case files and analyses at the December 8th meeting.

Mr. Richard said that he is drafting the decision for Appeal No. 2004-18 Spectrum Properties vs. the Town of Coventry Zoning Board of Review.

Substantial Completeness Reviews

The Board began its review of the substantial completeness of the applications on its agenda. The transcript of the hearing is the record of the proceedings and available for public review upon request.

Appeal No. 2004-08 Block Island Housing vs. the Town of New Shoreham Zoning Board of Review

Representing the parties were David Igliozi, Esq. for Block Island Housing and Donald Packer, Esq., for the Town of New Shoreham Zoning Board of Review. The Town argued that the application is not substantially complete; counsel for the developer argued that the application is complete.

Mr. Packer handed out packets of information addressing the substantial completeness of each application to Board members and legal counsel for the developer.

Judge Erickson noted that the developer could submit evidence without submitting sufficient evidence. There is a difference between having enough evidence to proceed vs. enough evidence to approve the proposal. He also said that the applicant is entitled to request waivers; the hearing process would determine if the Town should grant the waivers. Also, the SHAB checklist is what the developer must submit to the SHAB as part of an appeal; it represents the information available at the end of the local hearing process.

Appeal No. 2004-22 Nicholas DePetrillo vs. the Town of New Shoreham Zoning Board of Review

Representing the parties were William Landry, Esq. for Nicholas DePetrillo and Donald Packer, Esq., for the Town of New Shoreham Zoning Board of Review. The Town argued that the application is not

substantially complete; counsel for the developer argued that the application is complete.

The Board took a break at 3:45 pm and reconvened at 4:00 pm.

At this point William Dolan, Esq. replaced Mr. Richard as legal counsel to the Board.

Appeal No. 2004-11 Churchill & Banks Companies, LLC vs. the Town of Smithfield Zoning Board of Review

Representing the parties were Richard Licht, Esq. for Churchill & Banks Companies, LLC and Edmund Alves, Esq., for the Town of Smithfield Zoning Board of Review. The Town argued that the application is not substantially complete; counsel for the developer argued that the application is complete.

Before the parties presented their arguments, Michael Milito, designee of Richard Godfrey, said that as an employee of Rhode Island Housing, he is an associate of Mr. Licht, who serves as general counsel for the Corporation. Mr. Milito said that he does not believe this relationship requires his recusal since he is not a business associate of the Tillinghast Law Firm. However, if there is any objection from counsel for the parties, Mr. Milito said that he would step down. Both Mr. Licht and Mr. Alves said they had no objection to Mr. Milito's participation on this appeal or the one to follow.

Mr. Alves said that the Town did not determine completeness because the developer could complete the application through the end of the hearing process. Judge Erickson suggested that the Town was now holding the developer to a new standard by requiring completeness at the beginning of the process. Mr. Alves replied that the General Assembly imposed the completeness standard.

Mr. Licht said that the 2004 housing law states that the application can be considered substantially complete if the Town acted “acted in a manner demonstrating that it considered the application substantially complete for the purposes of reviewing the application.”

Appeal No. 2004-05 New Harbor Village vs. the Town of New Shoreham Zoning Board of Review

Representing the parties were Richard Licht, Esq. for New Harbor Village and Donald Packer, Esq., for the Town of New Shoreham Zoning Board of Review. The Town argued that the application is not substantially complete; counsel for the developer argued that the application is complete.

Judge Erickson pointed out the need for Towns to weigh the strength and importance of each item in determining whether a missing item was significant enough to make the application incomplete.

Mr. Goodrich moved and Mr. Maynard seconded the motion to adjourn. The motion was approved unanimously. The meeting adjourned at 5:00 pm.

Respectfully submitted,

**Judge Stephen P. Erickson
Chair**