

# **STATE HOUSING APPEALS BOARD**

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## **DRAFT**

### **Minutes of the October 17, 2005 Board Meeting**

**The October 17, 2005 meeting of the State Housing Appeals Board (“SHAB” or “Board”) was called to order at 12:34 PM at the Coventry Town Hall by Mary Shekarchi, Esq. Chair. Board members in attendance were Mary Shekarchi, Esq. Charles Maynard, Donald Goodrich, Cynthia Fagan, M. Theresa Santos, William White, Stephen Ostiguy, and Dr. Isadore Ramos. Also present were Steven Richard, Esq. legal counsel to the Board, Katherine Maxwell and Christine DaRocha administrative staff to the SHAB. Ms. Shekarchi declared a quorum.**

### **Approval of Minutes of September 19, 2005 Meeting**

**Mr. Goodrich made a motion that SHAB approve the minutes of its September 19, 2005 meeting, which Mr. Maynard seconded. Mr. White**

**and Ms. Santos abstained as they had not attended that meeting, and the rest of the SHAB members, including Dr. Ramos who had attended that meeting and participated in the capacity of municipal alternate, voted unanimously to approve the minutes.**

## **Issuance of Decisions on Substantial Completeness for Burrillville Appeals**

**Mr. Richard indicated that he had drafted decisions in the three Burrillville appeals based on the votes of the SHAB at the September 19, 2005 meeting, and that the written decisions had been circulated to all the Board members in advance of today's meeting. The final drafted decisions incorporated comments from the September 19th meeting as well as deliberations and any dissenting views of the members on particular findings of fact. The three decisions were for:**

- Pascoag Apartments, LLC. v. Burrillville Zoning Board of Review, SHAB Appeal 2004-12**
- Crystal Lake, LLC. v. Burrillville Zoning Board of Review, SHAB Appeal 2004-13**
- East Avenue Development Realty Corporation v. Burrillville Zoning Board of Review SHAB Appeal 2004-14**

**In the interests of time the decisions were distributed to Mr. Landry,**

**counsel for the developers, copies signed by the Chairperson to be mailed after close of the meeting.**

## **Report on Arguments Before the Rhode Island Supreme Court on SHAB Decisions**

**Mr. Richard reported that he had attended Supreme Court sessions that related to SHAB matters. He summarized the issues that were before the court in the West Reservoir (SHAB 2004-17) and Armand Cortolesso d/b/a Patriot Homes for the Board. Mr. Richard noted that the town of Smithfield argued that SHAB lacked jurisdiction to decide the substantial completeness appeals, and he informed the Board that he would keep the members posted on any developments regarding the jurisdiction issue.**

## **SHAB's Hearings and Deliberations in the three Smithfield Substantial Completeness Determinations.**

**SHAB received oral arguments from Attorney Edmund Alves (counsel for the town of Smithfield) and;**

- Attorney Greg Benik (counsel for the developer) in 2004-10 Smithfield Hills LLC. v. Town of Smithfield Zoning Board of Review;**
- Attorney Richard Licht (counsel for the developer) in 2004-11 Churchill & Banks, LLC. v. Town of Smithfield Zoning Board of**

## **Review;**

- **Attorney David Igliozi (counsel for the developer) in 2004-16 Crown Properties, LLC v. Town of Smithfield Zoning Board of Review SHAB Appeal**

**Counsel addressed the issues of SHAB's jurisdiction to hear the appeals and the substantial completeness of each application for a comprehensive permit. SHAB has a transcript of the oral arguments available for public review upon request.**

### **A. 2004-10 Smithfield Hills LLC. v. Town of Smithfield Zoning Board of Review**

**During its deliberations in Smithfield Hills LLC's appeal, SHAB made the following findings:**

- **On the matter of the adequacy of the list of waivers, Mr. Goodrich moved and Mr. Maynard seconded the motion that the list was substantially complete. Passed unanimously.**
- **On the issue of the substantial completeness of the site plans, Mr. Goodrich moved and Mr. Ostiguy seconded the motion affirming substantial completeness. Motion passed unanimously.**
- **On the issue of the adequacy of the presented site conditions, Mr.**

**Ostiguy moved and Mr. Goodrich seconded that the report was adequate. Motion passed unanimously.**

- **On the issue of the tabulation of the proposed buildings, Mr. Goodrich moved and Mr. Maynard seconded the motion that the tabulation was substantially complete. Motion passed unanimously.**

- **On the issue of the sufficiency of the master plan submission, Mr. Maynard moved and Mr. Goodrich seconded the motion that the submitted application was complete. Motion passed unanimously.**

- **On the issue of whether the threshold of the required information relative deed restrictions was met Mr. Ostiguy moved and Ms Fagan seconded was not adequate. Mr. Goodrich and Ms. Shekarchi, nay. All other members aye. The Board therefore determined that the proposed deed restrictions did not comply fully with the statutory requirement.**

- **On the issue of whether the application in its totality is considered substantially complete, Ms. Shekarchi moved and Mr. Maynard seconded the motion in the affirmative. Motion passed unanimously.**

- **On the matter of whether the Smithfield Zoning Board acted in a manner to indicate that the application was substantially complete. Mr. Goodrich moved and Mr. White Second. Motion passed unanimously.**

## **B. 2004-11 Churchill & Banks, LLC. v. Town of Smithfield Zoning Board of Review**

**Mr. White recused himself from this matter. Ms. Shekarchi disclosed that she had a co-counsel relationship with a member of Mr. Licht's firm on a separate matter, wholly unrelated to the Churchill Banks SHAB appeal. Both the Town's counsel and Mr. Licht had no objection to her continued participation.**

**During its deliberations in Churchill & Banks, LLC's appeal, SHAB made the following findings:**

- On the issue of the adequacy of the requested list of waivers, Mr. Goodrich moved and Mr. Maynard seconded that the submission was complete. Motion carried unanimously.**
- On the issue of whether to accept the developer's offer of proof concerning the adequacy of the site plans, Mr. Goodrich moved and Ms. Santos seconded the motion to accept the offer of proof. Motion carried unanimously.**
- On the issue of the adequacy of the site plans, Mr. Goodrich moved and Mr. Maynard seconded the motion that the site plans were adequate. Motion carried unanimously.**

- On the issue of the adequacy of the proposed building tabulation, Mr. Goodrich moved and Ms. Fagan seconded the motion that the tabulation was adequate. Motion carried unanimously.
- On the issue of the adequacy of the master plan submission, Mr. Goodrich moved and Mr. Ostiguy seconded the motion that the application was sufficient. Motion carried unanimously.
- On the matter of the adequacy of the deed restriction information submitted, Mr. Goodrich moved and Mr. Ositguy seconded the motion in the affirmative. Five votes in favor, Ms. Fagan dissenting.
- On the issue of whether the application, considered in its totality should be considered substantially complete, Mr. Maynard moved and Mr. Goodrich seconded the motion affirming. Motion carried unanimously.
- On the issue of whether the Smithfield Zoning Board of Review acted in a manner that indicated that the application was substantially complete, Mr. Maynard moved and Mr. Goodrich seconded the motion to affirm. Motion passed unanimously.

## **B. 2004-16 Crown Properties LLC v. Town of Smithfield Zoning Board of Review**

**Mr. Goodrich left the meeting. Dr. Ramos as Municipal Alternate**

**assumed a voting seat with the Board. Mr. White resumed deliberation for this matter.**

**During its deliberations in Crown Properties LLC's appeal, SHAB made the following findings:**

- On the matter of the adequacy of the evidence for site control, Mr. Ostiguy moved and Mr. White seconded the motion that the evidence provided was adequate. Motion passed unanimously.**
- On the issue of the adequacy of the site plans, Mr. Maynard moved and Ms. Santos seconded the motion that the site plans were adequate. Motion passed unanimously.**
- On the issue of the adequacy of the building tabulations Mr. Maynard moved and Ms. Santos seconded the motion that the tabulations were adequate. Motion passed unanimously.**
- On the issue of the adequacy of the master plan submission, a motion in the affirmative was made by Mr. Maynard and seconded by Mr. White. Motion passed unanimously.**
- On the issue of whether the application in its entirety should be considered substantially complete, Mr. Ostiguy moved that it was. Mr. Maynard seconded. The motion passed unanimously.**

- On the issue of the actions of the zoning board indicating that the application was substantially complete Mr. Maynard moved and Mr. Ostiguy seconded. Motion passed unanimously.

### **Proposed Rules of the State Housing Appeals Board.**

**Ms. Maxwell reported that the proposed Rules had been published for public comment. No comment had been received yet.**

### **Other Business**

**Mr. Ostiguy moved and Dr. Ramos seconded a motion to authorize the Chair to hold a pre-hearing conference in the matter of Block Island Housing v. Town of New Shoreham SHAB 2004-08. Motion carried unanimously**

**A tentative date for the next meeting was set for December 12, 2005. Mr. Richard noted that date may not accommodate the briefing schedules for the SWAP v. Town of West Greenwich Appeal.**

**Meeting adjourned at 2:49 PM**

**Respectfully submitted,**

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**Mary Shekarchi, Esq., Chair**