

# **STATE HOUSING APPEALS BOARD**

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## **Minutes of the April 25, 2006 Board Meeting**

**The State Housing Appeals Board (i\$SHABi" or the i\$Boardi"), convened a public meeting on April 25, 2006. The meeting was held at the Town of West Greenwich Town Hall.**

### **ATTENDANCE**

**The following Board members were in attendance: Chairwoman Mary Shekarchi, Charles Maynard, Cynthia Fagan, Donald Goodrich, William White and Isadore Ramos, Ph.D. Dr. Ramos participated in his role as the municipal alternative, given the absence of Theresa Santos. Steven M. Richard, legal counsel to the Board, was also present.**

**Chairwoman Shekarchi called the meeting to order at 2:00 p.m.**

## **AGENDA ITEM**

**SWAP, Inc. v. Town of West Greenwich Zoning Board of Review,  
SHAB Appeal**

**No. 2005-3**

**SHAB convened to deliberate in the appeal of SWAP, Inc. (i§SWAPi") challenging a Decision of the West Greenwich Zoning Board of Review (i§Zoning Boardi") dated April 19, 2005, which denied SWAPi's application for a comprehensive permit to construct housing on an approximately sixty-acre parcel located at 710 Victory Highway, West Greenwich, Rhode Island. Residents of Blueberry Heights Mobile Homes (i§Blueberry Heightsi"), as abutting land owners, participated in the appellate proceedings as intervenors. SHAB received detailed briefs from the parties regarding the merits of SWAPi's appeal and heard oral arguments from counsel on April 11, 2006. The briefs and the transcript of the April 11, 2006 arguments are available for public inspection upon request.**

**At the April 25, 2006 public hearing, the following counsel were present to witness SHABi's deliberations: William Landry on behalf of SWAP, Nancy Letendre on behalf of the Zoning Board, and Robert Craven on behalf of Blueberry Heights. SHABi's deliberations were transcribed by a stenographer. The transcript of the deliberations is available for public inspection upon request.**

**During SHABi's deliberations, it took the following votes:**

**„X Stephen Ostiguy moved for a finding that SWAP presented sufficient evidence in support of its application to qualify as a master**

plan level submission, which William White and Charles Maynard seconded. The motion passed by a 7-0 vote.

„X Donald Goodrich moved for a finding that SWAPj's proposed housing development is consistent with the West Greenwich Comprehensive Plan, which Charles Maynard seconded. The motion passed by a 6-1 vote.

„X Donald Goodrich moved for a finding that the Zoning Board of Review of the Town of West Greenwich acted unreasonably in denying SWAPs's request for density relief, particularly in light of the State's need for affordable housing and the fact that the proposed project contains adequate buffer space separating it from adjoining parcels. Chairwoman Shekarchi seconded the motion, which passed by a 6-1 vote.

„X Chairwoman Shekarchi moved for a finding that SWAP had submitted sufficient evidence regarding environmental issues, such that it should be allowed to attempt to procure all necessary approvals from the Rhode Island Department of Environmental Management. Mr. Goodrich seconded the motion, which passed by a 6-1 vote.

„X Chairwoman Shekarchi moved for a finding that SWAP had submitted sufficient evidence regarding water issues associated with the proposed development, such that it should be allowed to attempt to procure all necessary approvals from the Rhode Island Department of Health. Mr. Ostiguy seconded the motion, which passed by a 6-1 vote.

„X Mr. Ostiguy moved for a finding that the Zoning Board imposed

**unreasonable conditions regarding sidewalks, which Dr. Ramos seconded. The motion passed by a 7-0 vote.**

**„X Mr. White moved for a finding that the Zoning board imposed unreasonable conditions regarding egress requirements, which Chairwoman Shekarchi seconded. The motion passed by a 6-1 vote.**

**After making these findings, SHAB proceeded to take votes regarding the standards set forth in R.I.G.L. § 45-53-6 (b) (1-6) as follows:**

**„X Mr. Goodrich moved that SHAB conclude that the Zoning Board did not properly apply the provisions of the West Greenwich Comprehensive Plan, which Mr. Ostiguy seconded. The motion passed by a 6-1 vote.**

**„X Mr. Ostiguy moved that SHAB conclude that West Greenwich has not met the statutory minimum levels of affordable housing prescribed by the Low and Moderate Income Housing Act, which Mr. White seconded. The motion passed by a 7-0 vote.**

**„X Mr. Ostiguy moved that SHAB conclude that the Zoning Board made premature and unreasonable determinations regarding the health and safety issues relevant to the proposed project, which Mr. Maynard seconded. The motion passed by a 6-1 vote.**

**„X Mr. Goodrich moved that SHAB conclude that the Zoning Board erred in its determination regarding environmental issues, which Dr. Ramos seconded. The motion passed by a 6-1 vote.**

**„X Mr. White moved that SHAB conclude that the Zoning Board imposed unreasonable burdens of proof upon SWAP during the hearings on the application, which Mr. Maynard seconded. The motion passed by a 6-1 vote.**

**Finally, SHAB took its dispositive vote regarding the merits of SWAP's appeal:**

**„X By a 6-1 vote, SHAB sustained SWAP's appeal and vacated the Zoning Board's denial of the developer's application for a comprehensive permit. SHAB expressly noted that SWAP still remains subject to the condition that it must receive all necessary State approvals before returning to the Zoning Board for final proceedings regarding the application.**

**[Note: In each of the above-listed votes in which there was a dissenting vote, it was cast by Cynthia Fagan. As explained in more detail in the transcript of SHAB's deliberations and votes, Ms. Fagan believes that the applicant failed to satisfy its burden of proof before the Zoning Board.]**

#### **ADJOURNMENT**

**Mr. White moved for the adjournment of the meeting, which Ms. Shekarchi seconded. The motion passed unanimously, and the meeting adjourned at 4:41 p.m.**

**Respectfully submitted,**

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**Mary B. Shekarchi**  
**Chairwoman**