

STATE HOUSING APPEALS BOARD

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Minutes of the April 9, 2014 Board Meeting

The State Housing Appeals Board (“SHAB” or the “Board”) held a public meeting on April 9, 2014 at Warwick City Hall, 3275 Post Road, Warwick, Rhode Island.

ATTENDANCE

The following members were present: Chairwoman Kelley Morris, Brenda Clement, James Grundy, Luis Torrado and Joseph Caffey. Also present were Steven M. Richard, legal counsel to the SHAB, and Christine DaRocha, administrative staff to the SHAB.

Call to Order

Chairwoman Morris called the meeting to order at 2:10 p.m.

Approval of 12/13/13 Minutes

The Board unanimously approved the 12/13/13 minutes.

Update from SHAB's legal counsel regarding status of docket

Mr. Richard stated that the matter on the April 9 agenda is the only active appeal on SHAB's docket. The other pending appeal, NEMA v. Town of Westerly, remains in settlement negotiations.

Mr. Richard stated that, regarding the Town of Cumberland's appeal of SHAB's Decision in Pesaturo and Gemma vs. the Town of Cumberland, the Rhode Island Superior Court affirmed SHAB's rulings vacating the Cumberland Planning Board's Decision. The Town will likely seek the Supreme Court's review. If the Supreme Court does not accept the Town's appeal, the matter goes back to the local level for further proceedings.

Regarding the LR-6A LLC vs. the Town of Hopkinton appeal in which SHAB affirmed the Town's denial of the application, the developer's appeal to Superior Court is pending at the briefing stage.

Regarding the SWAP vs. the Town of West Greenwich appeal in which SHAB declined jurisdiction, the matter is before Superior Court, where the court will examine whether SHAB properly declined jurisdiction and whether the developer is entitled to any relief under the Consent Order entered by the Supreme Court in prior

proceedings.

North End Holdings Company, LLC v. Town of Barrington ("The Residence at the Preserve"), SHAB Appeal No. 2012-01

Chairwoman Morris discussed whether the record submitted by the Town contained the relevant sections of the comprehensive plan as they were written prior to the amendments in 2012. At the December hearing, the parties cited to and set forth their respective positions regarding the prior version of Section 5-8 of the Affordable Housing Plan and the effect of the 2012 amendment. Mr. Richard indicated that he had not seen a copy of the prior version of Section 5-8 in the transmitted record but provided for counsel's review a copy of the prior version of the Section 5-8 obtained from the Town's website. Counsel for the Town and Developer stipulated that the document contained the prior version of Section 5-8 discussed at length by the parties in their briefs and oral arguments.

SHAB discussed the applicable standards of review under 45-53-6. As part of its deliberations, SHAB concluded that the Town has only 300 acres of developable land and still needs a substantial number of units to meet the 10% goal as a proportion of year-round affordable housing. Regarding the amended application by North End Holdings, the developer appropriately addressed it at the master plan stage which would be subject to further review at the preliminary plan

stage. SHAB recognized the environmental issues cited by the Town, but concluded that the project was designed in a manner to alleviate any such concerns. Regarding the extent to which the community applied local zoning ordinances and reviews procedures evenly on subsidized and un-subsidized housing applications alike, SHAB particularly cited to the fact that the Town is actively planning to develop affordable housing within 1,000 feet of the Developer's site and seems to be holding the private landowner to a more difficult standard in its proposal to build a project that includes low and moderate income housing.

Mr. Grundy made a motion to vacate the Barrington Planning Board's decision and approve the developer's application. Ms. Clement seconded the motion. The Board voted unanimously to vacate the Planning Board's decision. Mr. Richard will write and circulate the decision for the Board's review prior to entry. SHAB will hold another public hearing to discuss and consider the adoption of the written decision.

Adjournment

The meeting adjourned at 4:10 p.m.

Respectfully submitted,

Kelley Morris, Esq., Chairwoman