



**TOWN OF WAYLAND**  
MASSACHUSETTS  
01778  
**BOARD OF APPEALS**

TOWN BUILDING  
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**Meeting Minutes**

**Wednesday, June 28, 2023**

**A public hearing was held on Wednesday, June 28, 2023, in-person and remotely, on the following application(s) at the time indicated:**

Attending the meeting at 7:00 pm in-person and via Zoom, Wayland members were in attendance: Chair Joshua Wernig, Kevin FitzPatrick, Aida Gennis, Jim Grumbach, Adam Hirsh, Doug Levine, Shaunt Sarian, Thomas White. Also in attendance: Sean Reardon (ZBA Peer Reviewer and Vice President, Tetra Tech), Amy Kwesell (Town Counsel), Mike Crisafulli (Building Commissioner), Manny Oliver (Building Department), and Robbie Bullard (IT Support). Audio and video recorded by WayCam.

Joshua Wernig opens the meeting and reads the following:

**One may watch or participate remotely with the meeting link that can be found at <https://www.wayland.ma.us/public-body-meeting-information-virtual-inperson-and-hybrid>**

**Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and via remote means, in accordance with applicable law. This meeting may be recorded which will be made available to the public on WayCAM as soon after the meeting as is practicable.**

**When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by in person attendance (if allowed), or by accessing the meeting remotely, as noted above. We request public comment be limited to two minutes per person.**

**Everyone in attendance should be aware that face masks are now optional for Town Buildings according to the new Face-Covering Guidance dated February 24th, 2022. <https://www.wayland.ma.us/home/news/face-masks-optional-town-buildings>**

Joshua Wernig reviews the agenda and gives instructions to all present.

Mr. Wernig announces that the ZBA are actively recruiting for two new Members, as there are two current Members who will be stepping down. He encourages all interested parties to contact the Select Board with letters of interest.

**Public Comment:**

None.

**Review/Accept Minutes of May 25th, 2023, May 30th, 2023, June 1st, 2023, June 8th, 2023:**

Members review minutes for the meeting dated 5/25/23. There are no changes.

Jim Grumbach says he has not had time to review the minutes on his own. Shaunt Sarian notes that he was not in attendance for the meeting in question.

Doug Levine moves to approve the minutes dated 5/25/23. Adam Hirsh seconds. Voted (6-0-2 by roll-call vote).

Joshua Wernig says that no other minutes are currently available. He notes that the recent increase in meetings, due to the 40B case currently before the ZBA, has made administrative support challenging.

**Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:**

None.

**Joshua Wernig reads the legal description:**

**Continued:** Application by **The Planning Office for Urban Affairs** for a comprehensive permit filed pursuant to General Law Chapter 40B for 60 rental units, 100% of which shall be deed restricted as affordable. This property is located at **124 Cochituate Road** which is in the R-40 Zoning District. **Anticipated topics to be**

**discussed but not limited to: Traffic, Parking, Wetlands, Stormwater. Case #23-09** (Continued 5.25.2023, 5.30.2023, 6.1.2023, 6.15.2023)

In attendance for the application are: Shaina Korman-Houston (Director of Real Estate, Planning Office for Urban Affairs), Bill Brogan (President, Planning Office for Urban Affairs), Steve Garvin (Engineer, Samiotes Consultants), Rebecca Bachand (Landscape Architect, RBLA Design), and Jay Szymanski (Architect, The Architectural Team), Bill Green (Real Estate Project Manager, Planning Office for Urban Affairs), Robert Brennan (Attorney, Smolak & Vaughan LLP).

Ms. Korman-Houston gives an update on the application. She says they have submitted revisions to the original plans, reflecting comments and concerns from ZBA Members, other Town representatives, the peer reviewer, and members of the public. Their new submissions include a stormwater report and an updated landscape plan. Ms. Korman-Houston says that a photometric study is about to be submitted. She says that their proposed waiver list is also available for ZBA review.

Mr. Garvin reviews the minor changes the applicants have made to their site plan. He says they have added a 2 ft grass strip on the south side of the building. They have also slightly adjusted the location of the septic system, so that it is fully out of the 100-ft buffer zone between the property and the neighboring wetlands.

Ms. Bachand reviews changes to the landscape plan, beginning with lighting. She notes that they are installing light shields to protect spillage into the wetlands. She also reviews plans for vegetation plantings, noting that some of these will be done earlier than usual, to allow more time for growth by the end of project construction.

**Questions from Members:**

Aida Gennis asks how tall the plantings along the north side will be. Ms. Bachand says that Phase 1 will include the planting of 10-12 ft arborvitae trees—14 of them in total. She says they would usually plant trees about half this height, but they have planned for taller trees in response to comments from abutters. Ms. Bachand also notes that there is an existing fence in this area, but that they plan to extend this, in addition to the vegetation. She says that it will be 6 ft tall and solid, running parallel to the property line from where the existing fence ends, to the drainage.

The peer reviewer notes that he has not seen a detailed breakdown of which trees will be going where. Ms. Bachand says she can provide this.

**Public Comment:**

Barbara Rutledge, 1 Windy Hill Lane, says 14 arborvitae are not enough; she and other abutters want a thick hedge. Ms. Bachand says they do not want the existing trees to decline, so they are planning plantings to avoid interfering with existing root systems. She says that, when they reach maturity in 10-15 years, coverage will be quite thick. Mr. Reardon expresses that these numbers may be conservative; he says 10-year-old arborvitae may reach maturity in 5-8 years.

Ms. Rutledge also says that a 6 ft fence is not high enough. Ms. Bachand notes that fences over 6 ft are usually considered “structures,” which have different requirements regarding excavation and fall zones.

[Name Inaudible], 3 Winthrop Road, says that green giant arborvitae can actually grow up to 50 ft high, and that they typically have growth of about 3 ft per year.

Ms. Rutledge says that the balloons and the stakes on site are not enough to demonstrate building height. Bill Green (?), Project Manager with the Planning Office for Urban Affairs, says he was on site with abutters, who expressed concern about whether the balloons were in the correct locations, but that subsequently the surveyors confirmed that all the balloons were correct.

Members note that they did not receive notice of a site visit, but they would like one. Joshua Wernig says the issue of the balloons has been a protracted conversation, and a site visit to which both the ZBA and abutters are invited might help end the debate.

David Shamoian, 2 Windy Hill Lane, requests that any ZBA approval be very specific regarding landscaping, in the event that the developers do not follow through with the Phase 2 plantings. Ms. Bachand notes that the Phase 2 plantings have been integral to construction plans since the beginning, and that Phase 1 is really a supplement.

Elizabeth Russell-Skehan, 101 Pelham Island Road, opines that the balloons are easy to see, but maybe less so from the abutters’ properties, as they are below the tree line. She says the landscape plan is excellent, and she emphasizes that the neighbors already have extensive plantings on their own properties that restrict their views.

Mr. Reardon asks the applicants for more clarity regarding the lease line, and which parking is for the church and which is for the rectory. The applicants say that the septic system was directly under the parking lot when the lease line was drawn. Ms. Korman-Houston says that the details need to be negotiated with the Archdiocese. Ms. Kwezell says that she is confused about the church and the rectory being within

the lease line. Ms. Korman-Houston says that the preference was not to carve the rectory out of the lease line and to have one contiguous parcel.

Mr. Szymanski responds to a previous comment about exposed foundation wall. He says that they have brought the siding and cladding down, to reduce the amount of exposed foundation. These are the only architectural changes from previous plans. Mr. Reardon asks if the volume will be filled; Mr. Szymanski says it will.

Bill Green (?) reviews the work that applicants have done reviewing the option of a crosswalk, a suggestion raised at the last hearing. Their traffic engineer has selected a location based on the closest intersection with the most acceptable sight lines, and he recommends a rectangular rapid-flashing beacon crosswalk. However, Mr. Green says, the POUA have met with the Wayland Police Department, who do not support the location of the crosswalk, as it is not at an intersection, and they are concerned about the speed of vehicles and the lack of a sidewalk on the northbound side of Cochituate Road (meaning that ADA accessibility would be difficult to implement).

Aida Gennis notes that there are existing crosswalks in Town in similar types of locations. Ms. Korman-Houston says that both the Traffic Engineer and Police Chief have expressed that these types of crossings are less safe than those at true corners.

Jim Grumbach also notes a few crosswalks that do not meet this standard, yet still seem to enhance safety. He believes some type of crossing would be useful at the St. Ann's location. There is discussion of different types of crosswalks. Mr. Reardon notes that flashing beacon crosswalks, unlike traffic light, do not legally require drivers to stop. He says that his recommendation is to extend the sidewalk to the existing lighted intersection, at which drivers are required to stop at red lights. Ms. Korman-Houston says that, because of grade, they have struggled to determine how to implement such an extension.

Rebecca Stanizzi, 14 Winthrop Road, says there is a fence for the aqueduct that prevents installation of a standard, ADA-approved sidewalk. But she says that mid-block crosswalks provide a false sense of security, as drivers routinely ignore them.

Larry Meador, 3 Windy Hill Lane, expresses concern about the ecological impacts of the project. He cites the multiple species of plants and animals native to the area, and he hopes that the developers will provide assurances that they will mitigate any damage caused by the construction of this project. Joshua Wernig notes for the record that the ZBA approval process does not wait on the Conservation Commission, but that the project itself will require the ConCom's approval. Mr. Reardon clarifies that the ConCom, Board of Health, and the National Discharge Elimination System

permit requirement—which is a federal mandate—are all guardrails that require substantial documentation in order for the project to move forward. He also emphasizes that the ZBA only approves preliminary plans, which will naturally be less detailed than the finalized plans that will be required before a building permit is issued.

Tom Sciacca, Rolling Lane, says he has been actively involved in protecting Wayland's environment for over 50 years. He expresses that the project site is no more environmentally sensitive than any other part of Town, and he is fully confident that the ConCom can condition its approval in such a way to ensure that it is ecologically sound. He supports the project and hopes it moves forward speedily.

Ann Rensley (sp?), Barney Hill Road, thanks Members for talking about the sidewalk and crossing concerns. She works in real estate development and has worked on 40B projects; she believes this application is one of the more positive that she's seen. She believes housing is a fundamental human right, and she supports the project.

Gloria Villari, 3 Winthrop Road, says that low-income seniors are an underserved community in Town, and she believes that this project is a wonderful opportunity.

Chris Reynolds, 139 Winthrop Road, appreciates that the applicants have been very responsive to resident concerns, and he worries that, if the Town passes on this project, future 40B applicants will not be as cooperative.

[Name Inaudible], Jeffrey Road, asks if the ZBA or the Town has submitted an eligibility request to the State for approval. Joshua Wernig notes that the Project Eligibility Letter is a prerequisite for applicants to even come before the ZBA, so this has already been done. The resident asks how long the approval process will take. Mr. Wernig says he hopes to get into the specific waivers requested as soon as possible. The resident says that another application is before the Town; Mr. Wernig says it would be inappropriate to discuss applications other than what is before the ZBA.

Rebecca Stanizzi says many Wayland residents are unable to attend ZBA meetings, but many of them have signed an online petition urging the project to move forward. She emphasizes the public support for the project, and she says that she will provide the names and addresses of those in support for future meetings. Joshua Wernig notes that the ZBA have also been receiving individual letters of support.

John Rutledge, 1 Windy Hill Lane, says that the Catholic Church owns a large parcel of land and that the project could be located on the south side, where the parking lot

is; he says that this would solve all the neighbors' problems. Joshua Wernig notes that there has been robust discussion of this possibility at previous hearings, and that it was not found to prevent the necessary clearing of woods. He also says that the ZBA cannot compel the applicant to involve that part of the property in this application.

Joshua Wernig asks the applicants to present the requested waivers. Mr. Brennan says the waivers they are seeking can be characterized broadly as administrative and substantive. Administrative waivers will help reconcile inconsistencies, and substantive waivers will allow them to move forward practically and economically. Mr. Brennan notes two changes to the original requested waiver list: one specifies lot coverage of 5%—where previously it stated only less than 20%— and the other reflects that the Board of Health has voted to endorse their specific BoH waivers.

Amy Kwesell offers to share her comments on the waiver requests. She says she has received Mr. Reardon's thoughts on the waiver list as well, and that she can communicate these. Mr. Reardon and ZBA Members agree to this.

Ms. Kwesell says the first waiver is a standard administrative one. The second waiver deals with signs and exterior lighting, for which Ms. Kwesell recommends tabling discussion, as she and Mr. Reardon have not been in receipt of signage and lighting plans prior to this meeting. She says that the third waiver request, regarding temporary signage—for example, OSHA signs during construction—is unnecessary; she therefore recommends that the ZBA deny it.

Ms. Kwesell and Mr. Reardon agree that the next waiver, regarding earth removal, is necessary and should be granted. She says the following waiver, regarding off-street parking, has some outstanding issues (some related to lighting plans) that need to be resolved before it can be considered. The next two, for the Design Review Board and site plan approval, are very common waivers that Ms. Kwesell recommends granting.

Ms. Kwesell says that the next waiver, for height regulations, is necessary for the project, as the applicants are seeking a maximum height of 45 ft and 3 stories, where the limit is 35 ft and 2.5 stories. She recommends granting this waiver, as well as the following one regarding setbacks. (She notes that the applicants need only some setbacks to be waived.) She says that the next waiver, for yards, is related.

Regarding the waiver for the Table of Dimensional Requirements, Ms. Kwesell says some of the specifics the applicants are requesting—for example, minimum lot area and minimum frontage—are unnecessary, as they are already in compliance with the

bylaws. She recommends granting the specific waivers that are needed, such as minimum front yard setback (25 ft in the application, where the requirement is 30 ft).

Ms. Kwesell addresses the waiver for the Table of Permitted Principal Uses, which she says is necessary for this application, but she says that the issue of the ground lease needs to be clarified before approving it. She says the related waiver for Prohibited Uses is a standard administrative waiver. Regarding the waiver for the Table of Accessory Uses, Mr. Reardon has noted a generator location not shown on the plans, and Ms. Kwesell says that they will either need more detail on this before approving the waiver, or else the issue will need to be addressed in the conditions.

Ms. Kwesell says that the Permitted Uses in a Single Residence District waiver is necessary. She says, regarding the Inclusion of Affordable Housing waiver, that the applicants are far exceeding the affordable housing requirement—but not pursuant to the Zoning bylaw, rather pursuant to State law Chapter 40B. She suggests granting this waiver, therefore, as an administrative function.

Ms. Kwesell says the waivers for both Stormwater and Land Disturbance and Wetlands and Water Resource Protection are standard for most 40B applications and should be granted. She emphasizes that these waivers do not mean the ConCom will look any less closely at stormwater, wetlands, or other related ecological issues.

Ms. Kwesell addresses the waivers for Board of Health regulations. She says the waiver for the septic design requirements meets with no objections from herself or Mr. Reardon; nor do the two waivers regarding the soil absorption system. Once again, she notes that the BoH will weigh in on all of these issues independently.

With regard to the offset distances for the Soil Absorption System, Mr. Reardon is unsure whether a waiver is even applicable, so they will consult the BoH on this. Finally, Mr. Reardon has no objections to the waiver for Hydro-Geological Evaluation, as the project has to comply with State regulations in any event.

Ms. Kwesell reiterates that the ConCom and BoH will have to issue their own approvals of the project and that, if they have objections or propose radical changes, these will come back before the ZBA before the project can move forward.

Doug Levine asks Ms. Kwesell how she would define a “radical change.” She clarifies that the building having to move in response to wetlands or septic system concerns would be an example of a radical change.



Mike Crisafulli addresses the church and the rectory being included in a multi-family zone, saying that this has to do with the church's potential function as a shelter for those experiencing emergencies. Mr. Brennan adds that the rectory is part of the leased parcel, but not the project. Ms. Kwesell asks if the applicants have considered using an easement, rather than including the rectory in the leased parcel. Mr. Brennan says he believes that there were reasons for doing it the way it was done, but he was not part of making that determination. There is further discussion about the the rectory being part of the leased area, even though it is not part of the project. Ms. Kwesell says this issue will need to be clarified before the project can move forward.

There is discussion of scheduling future hearings on the case. There is also discussion of scheduling a site visit for ZBA Members. After consulting their schedules, Members agree to conduct a site visit on July 11, 2023 at 5:00 pm. Ms. Kwesell reminds all present that the site visit is not an open meeting; there can therefore be no deliberation among Members, and they can address no public comments.

Ms. Kwesell reviews Members attendance at the previous substantive hearing for this case. She identifies individual meetings that Ms. Gennis, Mr. FitzPatrick, Mr. Grumbach, and Mr. Sarian missed and asks these Members to review the video for the relevant meetings and to sign the Mullins form to this effect; all agree to this.

Joshua Wernig moves to continue Case #23-09 until July 13, 2023, at 7:05 pm; Doug Levine seconds. Voted (8-0-0 by roll-call vote).

### **Adjourn:**

Adam Hirsh moves to adjourn the meeting; Doug Levine seconds. Voted (8-0-0 by roll-call vote).

Meeting adjourned at 9:27 pm.

Date Approved \_\_\_\_\_

Prepared By \_\_\_\_\_