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### **Senior housing at Maple Street approved**

At the May 26 meeting of Wenham's Zoning Board of Appeals (ZBA), members closed the public hearing on an application to construct 60 units of affordable senior housing on Maple Street. The ZBA voted to approve the proposal for all 60 units with conditions. The ZBA and consultant Judy Barrett have 40 days to write up the decision.

Several abutters expressed concern about conditions and not having an opportunity to speak before the hearing was closed. Chairman Anthony Feeherry declined to re-open the hearing and suggested that those with comments related to the conditions submit them in writing to Emilie Cademartori, Wenham's Planning Agent, at the Town Hall or [ecademartori@wenhamma.gov](mailto:ecademartori@wenhamma.gov) or Harborlight Community Partners (HCP) Executive Director Andrew DeFranza.

The hearing was closed but not without difficulty: lawyers representing both the applicant and abutters were still presenting documents.

Chairman Feeherry said that it had been the ZBA's intent to close the public hearing at the May 26 meeting, but members allowed a brief presentation by an expert on 40B properties, Richard Heaton of H and H Associates, LLP, of Bolton, Mass.

Theodore Regnante of Regnante, Sterio and Osborne LLP, representing the applicant, was opposed to accepting any more documentation and favored immediately closing the hearing. However, the ZBA accepted two documents: a May 26, 2015, letter to DeFranza from the Metropolitan Area Planning Council (MAPC), which states "MAPC supports Harborlight Community Partners' proposed Maple Woods development and is glad to answer any questions about its potential relationship to any regional plans"; and a March 10, 2015, letter from Daniel C. Hill of Hill Law, representing a number of residents opposed to the plan, in which he pointed out a number of issues related to the application including: a lack of signatures, details and specifications on design plans, including "snow storage area", the need for additional parking spaces to conform to the town's Senior Housing Overlay District bylaw, a request for a mounding analysis for the septic system, additional proof of legal right to acquire easements, and clarification of the Option agreement. The first section of the document listed recommendations on each of the stated issues.

A second section of Hill's document specifically introduced opponents' concerns about the project related to Priority Preservation Areas (PPA) and Priority Development Areas (PDA), which were specifically addressed in the MAPC letter.

### **Letter supports affordable construction**

In the MAPC 2011 North Shore Regional Strategic Planning Project Report, the tree plus acres for the project were described as part of a larger site- 24 plus acres- designated PPA because of its forestry and agricultural status, scenic vistas and topography.

However, the MAPC letter stated: "...this designation does not mean that the town should not allow development on the site. In fact, there are many examples of municipalities throughout Massachusetts where both development and

open space preservation are encouraged side by side. Maple Woods affords the town a rare opportunity to achieve two important goals: provide much needed affordable housing development while also preserving a portion of the PPA, particularly the former agricultural area on the parcel. We urge the town to allow the proposed development, while at the same time taking steps to protect the rest of the parcel (or at least a portion of the parcel) from future development.”

In addition, the MAPC letter pointed out that the development would allow Wenham to reach the mandated 10 percent required affordable housing necessary to halt “comprehensive permit” developments, where developers are allowed to bypass zoning regulations, usually on lot size and frontage, in return for assurances of 25 percent affordable housing in the development. The Hill letter pointed out that Wenham does not need 60 units to achieve 10 percent and in fact only needs about 20. In addition, the Hill letter pointed out that Boulder Lane near Rt. 128 is an available PDA, appropriate for “mixed-use, smart growth development, including affordable rental housing.”

Richard Heaton, the opposition’s legal expert on 40B stated his recommendation to reduce the size of the project to 30 units, which would still be “economically feasible” and still allow Wenham to achieve the mandated affordable housing goal. Feeherry accepted the documents into the legal record and declined to take any more testimony.

### **Conditions forthcoming**

The ZBA allowed some discussion of the tax status of Harborlight Community Partners. Currently, HCP is a “limited dividend” company, according to Regnante, which allows them to be taxed as property owner.

Should HCP become a non-profit, or sell the development to some other non-profit, thereby making the owner ineligible for taxation, ZBA members were interested in options for PILOT – Payment In Lieu Of Taxes, where the town would receive an annual contribution of cash, equipment, services, or staff in place of the property tax.

DeFranza and Regnante both stated the commitment of HCP to retaining control of this project, as has happened with all other HCP senior affordable housing projects on the North Shore. ZBA members and abutters were both concerned about monitoring the project for compliance during development and the subsequent resident application process. Regnante and Barrett clarified the process: an independent monitor is hired for the process in addition to the project’s Clerk of the Works and reports are submitted periodically at a minimum.

After the meeting, DeFranza said that the complete list of conditions will be available in the finalized decision document. However, he believed that the conditions were “reasonable and workable.” At the meeting, some areas for conditions were clear from the discussion. Initially, many parties had presented concerns about the impact of the development on Wenham’s water resources, prompting reviews by experts from the Ipswich River Watershed Association (IRWA).

DeFranza emailed a quote from the IRWA: “The applicant has satisfactorily addressed all the concerns raised by the Ipswich River Watershed Association in its comment letter dated January 26, 2015. Because many of these measures exceed the minimum environmental standards required by local and state regulations, the project should not adversely affect the environmental resources of the Ipswich River if it is constructed and maintained as proposed.”

A second condition will likely be parking: the ZBA agreed to determine the need for additional parking at a later date. Consultant Barrett said that she did not see any reason to reduce the number of units, regardless of economic feasibility. The minimum age for resident admission had been set at 55 in order to secure state funding. All the units are one-bedroom; only one person in the family is required to be 55; the other must be over 18. DeFranza and the ZBA would prefer that the minimum age be 62, but do not want to risk state funding. It is likely that conditions will state a preference for older applicants.

The ZBA requested more than notice for re-assignment – referring to the tax status of the property owner. Regnante reiterated the position that HCP “does not intend to flip the assignment.” Regnante read the legislation allowing reduction of project unit size. Barrett pointed out that Wenham’s Housing master plan expired in 2008 and the town has very little other planning to dictate number of units. Abutter Grace Arcand expressed concern about the

construction phase: she would like to have no smoking near property lines, no more impervious surfaces such as driveways and parking lots, and no early deliveries and construction vehicles.

All three ZBA members, Feeherry, Jeremy Coffey and Shaun Hutchinson, and the one alternate/associate, Christopher Vance, expressed themselves as in favor of the project and the full 60 units. Coffey said, "The benefits [to the town] outweigh the burdens." Feeherry praised the track record of Harborlight Community Partners and the willingness of DeFranza to compromise and work with the town and project neighbors.

### **Meeting concludes**

In other business, the ZBA approved the construction of a Meditation Hall and associated parking lot on Grapevine Road, given the applicant's lawyer James Kroesser's presentation of an agreement with abutter Notre Dame Children's Class addressing lighting, parking, and use of a share driveway.

The ZBA "endorsed the decision" related to 76 Topsfield Road and approved an agreement pending incorporation of the last changes submitted by ZBA member review.

ZBA member Coffey wished to add a statement that the town accepts the agreement but not "setting precedent on procedural issues."

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