

**Town of Lenox**  
**Zoning Board of Appeals**  
**December 9 2020 7:00 p.m. via Zoom**

**Members Present:** Robert Fuster Jr (RFJ); Shawn Leary Considine (SLC); Ned Douglas (ND); Al Harper (AH); Clayton Hambrick (CH)

**Staff:** Gwen Miller, Town Planner; Jessica Cote, Land Use Assistant

RFJ opened the meeting at 7:05pm.

1. 114 Main Street – Special Permit Request...continued from November 18
  - AH asked the petitioner, Mr. Winstanley, a series of questions regarding the value of the project including:
    - i. What would be the approx. total cost of the development?
      1. Estimate construction cost at \$300 to \$350 a square foot, 47, 000 total square footage, 15-17 million cost to build. Total value of project sold would be 20% higher than cost to build.
    - ii. Other economic benefits to town from this proposed project?
      1. Impact to retailers/restaurants within the village center with boost of people walking around downtown if these units are sold.
    - iii. Brief refresher of the history of the Winthrop house:
      1. Mr. Winstanley provided a brief history of the Winthrop house to the Board.
    - iv. What will happen if the SP is denied?
      1. Will sell to whomever will buy it. Does not plan to keep the property.
    - v. What financial hardships will you and your family face if this SP is denied?
      1. Applicant carries a mortgage on 114 Main Street as well as paying taxes each year.
  - Public Comment:
    - i. Mr. Puciloski, attorney for the Plaintiff, Mr. Jim Harwood, asked a series of interrogating questions for what Mr. Winstanley replied.
    - ii. Mr. Harwood – Walker Street – asked for more economic information on the project.
    - iii. Susan Foulds – 42 Walker Street – Positive about project however concerns regarding traffic pattern around Church St and Franklin St. Jim Scalise, engineer on the project reviewed traffic patterns in the Church and Franklin St areas.
    - iv. Eric Haythorne – 4 Kemble Street – Would like to see contribution to the Lenox Affordable Housing Trust.
    - v. Wendy Philbrick – 14 Cliffwood Street – agrees with Eric Haythorne that Lenox needs affordable housing.

vi. Jeff Walton – 213 East Street – agrees with Eric Haythorne that Lenox needs affordable housing.

- AH moves to adjourn public hearing. RFJr seconds. All in favor 5-0.
- RFJr moves that the ZBA renew its unanimous approval of the previously granted SP specifically with findings in accordance with section 3.4.2 of Lenox ZBL. AH seconds.
- Board began discussion of the SP. AH believes reaffirming the original approval is necessary because now specific findings in reference to section 3.4.2 of the Lenox ZBL are on the record formally and address why this permit should be granted. AH moves to incorporate these findings into the record.
- SLC happy an historical building is being saved within this SP application. Downtown is meant for density and the Board is often asked for reductions in parking to alleviate so much asphalt. SLC believes that the Board should have considered other issues during the previous hearings such as affordable housing. SLC stated that even though the discussion about affordable housing is off the table per the court remand, a petitioner still can and has the opportunity to voluntarily contribute to the Lenox Affordable Housing Trust.
- CH applauds the applicants for a great project and believes this is what downtown Lenox needs.
- ND agrees with the other members of the Board.
- RFJr moves to grant the SP to waive any deficiencies from conforming to section 9.1 of the Lenox ZBL. SLC seconds. AH amends the motion to grant the SP to waive all requirements under section 9.1. RFJr seconds amendment. All in favor 5-0.
- RFJr moves that the ZBA decline to reconsider the waiver of section 9.8.1.7 of the Lenox ZBL and decline to consider the dimensional and density requirements for affordable housing under section 9.8 of the Lenox ZBL as they do not apply to the project as there is no affordable housing being constructed. AH seconds. All in favor 5-0.
- RFJr moves that the board find that the internal parking density requirements of 7.1 have been satisfied as the petitioner has reduced number of units and increased under building parking, garages, so that there is a surplus of parking and not a deficit. SLC seconds. All in favor 5-0.
- RFJr moves that the thirty-five-foot buffer requirement from the side and rear property line be waived based on the location and shape of property and presence of large wetland area would be a hardship to the applicant and justify a waiver. CH seconds. All in favor 5-0.
- RFJr moves that the ZBA waive all commercial and residential boundary screening requirements to the extent that it only affects the interior of the property. SLC seconds. All in favor 5-0. RFJr moves that as a condition on granting this waiver that the applicant follow the landscape plan submitted with the application and work with abutting neighbors within reason if additional screening is requested by an abutter. SLC seconds. All in favor 5-0.

- The Board discussed with Joel Bard, Town Counsel, questions regarding section 9.1 and 9.8. It was then moved by AH to incorporate the following language into the decision: “The Board reviewed Petitioners’ application under Section 9.1 of the Zoning Bylaw. To the extent Section 9.8 is read to apply to this project, which is allowed by right and is not seeking a density bonus, the Board grants waivers from those requirements of Section 9.8 which are not consistent with the requirements of Section 9.1”. SLC seconds. All in favor 5-0.
2. Approval of Minutes from September 30<sup>th</sup>, October 14<sup>th</sup> and October 21<sup>st</sup>
- SLC moves to approve minutes from September 30<sup>th</sup>, October 14<sup>th</sup> and October 21<sup>st</sup>. AH seconds. All in favor 5-0.

RFjr closed the public hearing at 9:23pm.