

COMMONWEALTH OF MASSACHUSETTS
HOUSING APPEALS COMMITTEE

In the Matter of)	
)	
WALPOLE ZONING BOARD)	No. 2022-15
OF APPEALS)	
)	
and)	
)	
NEPONSET VILLAGE, LLC)	
)	

**ORDER ON JOINT MOTION FOR STIPULATION AND
ORDER OF REMAND**

On October 14, 2022, the Walpole Zoning Board of Appeals (Board) appealed a determination by the Department of Housing and Community Development (DHCD)¹ that the Board had not established a safe harbor under 760 CMR 56.03(1) with regard to an application for a comprehensive permit filed by Neponset Village, LLC (developer) for a development known as Neponset Village at 5 Pleasant Street in Walpole.

An initial conference of counsel was held on October 27, 2022, at which the parties discussed two related cases in Walpole that involved similar facts and identical questions of law: *Matter of Walpole and Wall Street Dev. Corp, LLC* (Darwin Commons), No. 2022-08, and *Matter of Walpole and Wall Street Dev. Corp, LLC* (Pinnacle Point), No. 2022-09. Because a summary decision was pending in the two related cases at the time, the parties decided this matter should be stayed until a decision was issued.

The summary decision in the related cases was issued on May 11, 2023. *Matter of Walpole and Wall Street Dev. Corp, LLC* (Darwin Commons), No. 2022-08; *Matter of Walpole and Wall Street Dev. Corp, LLC* (Pinnacle Point), No. 2022-09 (Mass. Housing Appeals Comm. Summary Decision May 11, 2023) (*Darwin Commons and Pinnacle Point*

Summary Decision). A status conference in this matter was held on May 23, 2023. At the conference, the parties agreed that the summary decision resolved issues identical to those presented in this case and discussed the possibility of filing a joint stipulation that would resolve this matter, preserve the parties' rights on appeal, and provide for remand to the Board.

On June 6, 2023, the parties filed a Motion for Approval of Joint Stipulation by Agreement. In the motion, the parties state the following:

1. The parties agree the material facts are the same as the facts in the *Darwin Commons and Pinnacle Point* Summary Decision, except for the date of the comprehensive permit application, which was filed in this matter on July 19, 2022, and which the parties agree is not a material distinction.
2. The parties agree the legal issues identified in the *Darwin Commons and Pinnacle Point* Summary Decision are the applicable legal issues in this matter.
3. The parties agree that, based on the foregoing, the Committee would be expected to reach the same conclusion in this matter with regard to the safe harbor determination.
4. The parties request that the presiding officer issue a ruling that the *Darwin Commons and Pinnacle Point* Summary Decision is dispositive of this case.
5. The parties agree that this matter should be remanded to the Board for hearing on the comprehensive permit application, and the Board shall conduct said hearing in accordance with the time requirements in 760 CMR 56.05(3) and 56.03(8)(a).
6. The parties do not waive their rights to appeal the safe harbor determination in this matter.

Accordingly, the parties' motion is granted, and this matter is remanded to the Board for continuation of the proceeding on the comprehensive permit application.

Housing Appeals Committee



June 15, 2023

Caitlin E. Loftus
Presiding Officer

¹ On May 30, 2023, DHCD became the Executive Office of Housing and Livable Communities, pursuant to G.L. c. 23B, as amended by Chapter 7 of the Acts of 2023.