



**TOWN OF WALPOLE**  
**COMMONWEALTH OF MASSACHUSETTS**  
**OFFICE OF COMMUNITY DEVELOPMENT**

**JAMES A. JOHNSON**  
*Town Administrator*

**ASHLEY CLARK**  
*Community Development Director*

**To:** Zoning Board of Appeals

**From:** Ashley Clark  
Community Development Director

**Date:** November 9, 2020

**Subject:** Summer Street 40B Update

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This Board opened the public hearing on this comprehensive permit application for a 40B development on Summer Street 40B on 3/4/2020. At that hearing, the Applicant provided a presentation of the project. The Board also approved peer review scopes for design and engineering. The hearing was continued to 4/15/2020. At the continued hearing, the Board voted to continue due to the state of emergency. The Board continued the hearing for the following dates without substantive testimony: 5/20/2020 and 6/17/2020.

On July 27, 2020, the Board approved working group sessions for the Applicant and Peer reviewers with staff to attend to help review of the application move forward while virtual hearings were still being worked out.

A work session was held on 8/12/2020 to discuss the site plan. In attendance: Ashley Clark- Community Development Director, Judi Barrett- MHP Consultant, Sean Reardon- Tetra Tech Peer Reviewer, Cliff Bochmer- Davis Square Architects Peer Reviewer, John Lee- ZBA Chairman, David Hale- Applicant/ Omni Properties, Leslie French- Omni Properties, Mark Brooks- Omni Properties and Katie Enright- Howard Stein Hudson.

8/17/2020 Staff updated the Board on the work session and the Board continued to 8/26/2020.

Staff worked with other departments to understand how to move hearings to a remote (virtual) platform. Staff had several department head meetings that included the Superintendent of Schools, Town Administrator, Assistant Town Administrator, Health Director and Walpole Media to understand how the town could adapt to virtual hearings. An effort was made to hold a hybrid hearing, where people could either attend in-person or remotely. Due to the restrictions in place at the time on the number of people allowed based on size of room, the only available space in town was the High School Auditorium. After consulting with the Health Director, it was decided that it was not

appropriate to mix public hearings with the school system due to -COVID-19 cross-contamination concerns.

The Board then decided to try virtual hearings, though were concerned about the ability for the public to participate. To address this concern, staff has made technology available to residents who would otherwise be unable to attend Zoom.

As a result of the Town purchasing a Town zoom account, consultation with the Director of IT and training sessions with ZBA members staff and the public<sup>1</sup> on how to run public hearings virtually, the Board agreed to attempt to make progress virtually on the Summer Street project. Security was of particular concern since early on in the zoom transition process, the Town experienced “zoom bombing” during one of the Council on Aging meetings where the screen share feature was taken over and adult content shared with the audience.

A second work session was held 9/11/2020. In attendance was Sean Reardon & Rob Woodland, Tetra Tech, Cliff Boehmer, Davis Square Architects, Ashley Clark, Com Dev, Judi Barrett, Barrett Planning, Susanne Murphy, ZBA and Leslie French, Ken Cram, Mark Brooks, David Hale from the Omni Development Team.

A hearing was then held on 9/21/2020 which had a presentation from the peer reviewers Cliff Boehmer and Sean Reardon. Both reviewers submitted their comments in writing.

A hearing was held 10/5/2020 to provide the public with an opportunity to give comments.

A hearing was held on 11/2/2020 where the Applicant’s team presented a revised plan set that was submitted 10/22/2020. The Applicant’s discussion included traffic. The Board’s Peer Review, Sean Reardon, also provided testimony to the Board.

A hearing was held on 11/5/2020 for a presentation from the Board’s Design Peer reviewer, Cliff Boehmer on the revised design. The public also provided testimony to the Board.

### **Staff Concerns/Outstanding Materials:**

Staff is concerned about the lack of adequate time to review the proposal and many outstanding issues that have not been addressed by the applicant.<sup>2</sup> Peer reviewer reports have identified several pieces of information that the Board needs in order to give this application an adequate review and bring the hearing process to closure. These items remain outstanding because the applicant has not responded. Additional memoranda have been provided by Town Department heads, outlining concerns that also remain unaddressed. Below is a list that highlights some the

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<sup>1</sup> The Director of Community and Economic Development held a Zoom Training session for interested members of the public to learn how to use the platform on September 16, 2020.

<sup>2</sup> See memos submitted by: Peer reviewers Sean Reardon and Cliff Boehmer, Landis Hershey, Conservation Agent dated 11/9/2020, Sewer & Water dated 11/5/2020, Health Department letter dated 11/6/2020, DPE/Engineering dated 11/2/2020, Police Department dated 10/30/2020 as well as letters uploaded to <https://www.walpole-ma.gov/community-and-economic-development/pages/55-summer-street-project-cedar-crossing-apartments-and>

outstanding issues/concerns. Note: this is not a complete list, and the individual departmental memoranda should be consulted.

- **Traffic:** The Applicant has been asked to work with the Town to determine appropriate mitigation, especially given the degradation in the level of service from a C to an E and cascading impact to nearby intersections ([see hearing 11/5/2020](#)). To date, no solution has been proposed.
- **Snow storage:** this has yet to be addressed and is of particular concern due to the vast amounts of sensitive wetlands area on site.
- **Waiver's list:** Applicant provided an updated waiver list on 11/9/2020, but they remain incomplete. For example, a waiver is requested from Site plan review, while the process should be waived, the Applicant is encouraged to review the standards of site plan review. Section 12.3.B1.J which states the "removal of soil, loam, sand, gravel or any other mineral substances within four feet of the historical high groundwater table elevation is prohibited." The waiver requested is "to allow construction of the project". The applicant has not identified the degree of waiver required (if not four feet, what is the proposed alternative?), and has essentially asked for a general plan waiver. The request is so vague that the Board cannot responsibly act on it.
- **Aesthetic considerations:** The Applicant makes the statement that "Aesthetic issues concerning building design can only be raised to extent that aesthetic considerations are imposed on market rate developments by specific regulations. Walpole Zoning By-law's Site Review Purpose states that: It is in the Town's interest to promote functional and aesthetic design, construction, and safe maintenance of all development and to minimize any harmful effects on surrounding areas, while simultaneously respecting the provisions of M.G. L. c. 40A s.3. The intent of the Site Plan Review process is to regulate rather than prohibit uses through reasonable conditions that may be required by the Planning Board concerning location of buildings, signs, open space landscaping, parking areas, storage areas, snow removal and storage, access and egress, drainage, sewage, water supply, and fire safety." Furthermore, the Walpole Zoning By-law has several sections dedicated to design considerations, design is also contemplated in the 40B statute. Design is a specifically defined local concern in Chapter 40B.
- **3-D Model:** The Applicant states that there is "no regulatory requirement for 3-D modeling for market rate housing in Walpole, so the Applicant is not required to produce 3-D models." Section 13.8.b states that the "Additional information may be required by the Planning Board, as reasonably necessary, to make determinations required by this section of the Bylaw." As Mr. Boehmer has testified, the Applicant has a 3-D model for the project and thus would not be overly burdensome for the Applicant to provide to assist the Board in reviewing the proposal.
- **Landscaping Plan (outstanding):** An updated landscaping plan should be provided and should address the concerns outlined by the Design Peer Reviewer including the impact of car headlights reflecting into windows.

- **Lighting plan (outstanding):** A lighting plan has been requested and remains outstanding see Section 13.8 of the Zoning By-law.
- **Landscaping of Parking Areas:** Mr. Boehmer noted that the sidewalks in area of large buildings follow along the fronts of parked cars, with no area for planting trees between the walks and parked cars and the Applicant replied that there is no regulatory requirement concerning this comment. The Walpole zoning by-law in Section 8.8.B outlines landscaping requirements that are intended to provide a set of standards toward reducing the visual impacts of large areas of pavement, improving the overall environment or parking areas by providing areas for shade and heat reduction, and enhancing the overall aesthetic appeal of parking areas.

Staff continues to look forward to working with the Applicant on the outstanding issues, especially those that relate to public health and safety.