

Patrick Deschenes

From: David Vlacich <dpvlacich@gmail.com>
Sent: Tuesday, July 18, 2023 1:10 PM
To: Patrick Deschenes
Cc: Dennis Murphy; Joseph Moriarty
Subject: Safe Harbor 40b - Darwin Commons

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Patrick...please distribute this to the board.
Thank you very much

Dear Members of the Board,

I am writing as a follow-up to Attorney Murphy's letter presented at the most recent ZBA hearing regarding the proposed Darwin Commons development. I cannot stress enough the importance of the Board invoking safe harbor yet again at your upcoming hearing on this project.

There is clear ground for safe harbor here:

The related subdivision application by the same applicant on the same land, was denied just last December by the Planning Board. The Chapter 40B regulations explicitly prohibit hearing a comprehensive permit within 12 months of denial of a related application without the required affordable units. Here, the 5-lot conventional subdivision proposed contained zero affordable units.

By pursuing this denied subdivision while its comprehensive permit appeal was pending, the developer brazenly flouted the rules staying hearings during appeals. Now the developer seeks to immediately reapply for a comprehensive permit, hoping you will overlook its procedural maneuvering.

Continuing to grant hearings now would completely undermine the related application safe harbor provision by allowing the very abuse of the process it seeks to prevent. It would broadcast to all developers that they can circumvent the careful sequencing of local and state permitting in Chapter 40B by recklessly filing overlapping applications. This Board must not enable such regulatory gamesmanship.

The developer has every right to reapply after the 12 month safe harbor period expires in December 2023. But holding a hearing now would strip the safe harbor provision of meaning and set a dangerous precedent.

I implore you to maintain the integrity of the Chapter 40B process in Walpole by invoking safe harbor at the upcoming hearing. Do not reward those who attempt to manipulate the rules. Stand firm in requiring the developer to wait its turn.

Thank you for your consideration of my comments. Please do not hesitate to contact me if you wish to discuss this matter further. We are happy to speak with you directly about the importance of enforcing the safe harbor protection here.

Sincerely,
Darwin Lane Abutters
cc: Dennis Muphy, Esq.