



**Town of Walpole**  
**Commonwealth of Massachusetts**  
**Zoning Board of Appeals**

**Zoning Board of Appeals**  
John Lee, Chair  
Drew Delaney, Vice Chair  
Bob Fitzgerald, Clerk  
Mary Jane Coffey, Member  
David Anderson, Member  
Judith Conroy, Assoc. Member  
Mark Major, Assoc. Member  
Timothy Hoegler, Assoc. Member

**DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT APPLICATION**  
**G.L. c. 40B, §§20-23**

**APPLICANT**  
**Wall Street Development Corp. – Darwin Development, LLC**

**LOCATION OF PROPERTY INVOLVED**  
**Darwin Lane**  
**Walpole Assessors Map 42; Lots 240, 227-13**

**RECEIVED**  
**22 JAN 28 AM 10:05**  
**TOWN OF WALPOLE**  
**TOWN CLERK**

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**PROCEDURAL HISTORY**

1. On September 17, 2021 Wall Street Development Corp. (the “Applicant”) submitted a complete application for a Comprehensive Permit for the construction of twenty-eight (28) townhouse condominiums within six (6) buildings.
2. The Zoning Board of Appeals (the “Board”) opened the public hearing for this case October 13, 2021. At that hearing the Board in a motion, invoked and declared that denial of the Residence at Darwin Commons 40B application was consistent with local needs as defined in 760 CMR 56.03 (1)(b) and 760 CMR 56.03 (4). This was due to receipt of a Certification of Approval, dated September 10, 2021, issued by the Massachusetts Department of Housing and Community Development (DHCD), certifying the Town of Walpole’s compliance with its Housing Production Plan, approved for a two-year period running from April 27, 2021 to April 26, 2023.
3. Written notice of the declaration of safe harbor was then forwarded through all appropriate means, to both the Applicant and DHCD on October 18, 2021, within 15 days of the opening of the public hearing on October 13, 2021. The procedure followed the formal procedure of safe harbor assertion which is outlined under 760 CMR 56.03 (8).
4. On October 31, 2021 the Applicant formally submitted an appeal of the Board’s invocation of safe harbor to DHCD.
5. On November 24, 2021 DHCD issued their formal decision on the applicant’s appeal. DHCD found that the Board had met its burden of proving safe harbor on the grounds for asserting the certified Housing Production Plan as defined under 760 CMR 56.03 (1)(b) and 56.03 (4), thereby denying the applicant’s appeal.
6. On December 15, 2021 the Board and the applicant reconvened for their continued public hearing and discussed the outcome of DHCD’s decision. The applicant proposed to the Board a scaled down proposal of twelve (12) single-family dwellings rather than original

twenty-eight (28) unit proposal. The Board continued the hearing for the purpose of allowing the applicant to present a concept plan of twelve (12) single family homes, while retaining their right to deny the project due to their upheld invocation of safe harbor.

7. At the continued public hearing on January 19, 2021 the Board deliberated on the project proposal, and voted to close the hearing and deny the Comprehensive Permit application of the Residence at Darwin Commons 40B.

### **DECISION**

The Board successfully invoked and declared that denial of the Residence at Darwin Commons 40B Comprehensive Permit application, would be consistent with local needs as defined in 760 CMR 56.03 (1)(b) and 56.03 (4), due to receipt of a Certification of Approval dated September 10, 2021, which was issued by the Massachusetts Department of Housing and Community Development. This certification signified the Town of Walpole's compliance with its active Housing Production Plan which was approved for a two-year period running from April 27, 2021 to April 26, 2023.

The Board properly followed the procedure for Board Decision as outlined in 760 CMR 56.03(8). While the applicant did appeal to DHCD the Board's assentation, DHCD rendered a decision through written notice on November 24, 2021 that upheld the Board's assentation.

After the rendering of DHCD's decision the Board, in good faith discussion, addressed the applicant's proposal to reduce the size and density of the proposed project. Ultimately, the Board proceeded with a denial of the project as legally permitted under 760 CMR 56.03 (1)(b).

### **RECORD OF VOTE**


The Board of Appeals voted, at its public hearing on January 19, 2022 to issue this Decision denying the Comprehensive Permit application as stated below:

**MOTION** by Ms. Coffey and seconded by Mr. Delaney to move denial of the Darwin Commons 40B Comprehensive Permit application pursuant to the Board's previous declaration that denial of the application is consistent with local needs under certified compliance with an approved housing production plan under the applicable provisions of 760 CMR 56.03, which was appealed by the applicant but affirmed by the Massachusetts Department of Housing and Community Development by decision dated November 24, 2021, without further appeal.

**In Favor:** John Lee, Chair  
Drew Delaney, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
David Anderson, Member

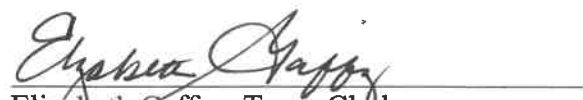
**Opposed:** None

The vote was three (5) in favor and zero (0) opposed resulting in a **vote of 5-0** which passed unanimously. **The result of the vote denied the comprehensive permit.**

  
John Lee, Chair

Dated: 1/28/22

Filed with the Town Clerk on: 1/28/22

  
Elizabeth Gaffey, Town Clerk

**Notice:** Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s.17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Walpole, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G.L.c. 40B, §23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.