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Brookline Zoning Board of Appeals Hearing
Application for a Comprehensive Permit
By Chestnut Hill Realty
Puddingstone at Chestnut Hill, LLC
June 6, 2018, at 7:00 p.m.
Brookline Town Hall
333 Washington Street, 6th Floor
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

1 APPEARANCES

2

3 Board Members:

4 Mark Zuroff, Chairman

5 Christopher Hussey

6 Lark Palermo

7

8 Town Staff:

9 Alison Steinfeld, Director of Planning and Community
10 Development

11 Polly Selkoe, Assistant Director of Regulatory
12 Planning

13

14 Applicant:

15 Marc Levin, Director of Development, Chestnut Hill
16 Realty

17 Steven Schwartz, Esquire, Goulston & Storrs

18 Joe Geller, Vice President, Stantec

19

20 Members of the Public:

21 Irene Scharf, town meeting member, Precinct 16

22

23

24

1 PROCEEDINGS

2 7:06 p.m.

3 MR. ZUROFF: Good evening, ladies and
4 gentlemen. I'm calling to order this meeting of the
5 zoning board of appeals. Tonight we are hearing the
6 40B matter which we call Puddingstone at Chestnut
7 Hill, LLC.

8 My name is Mark Zuroff. I'm sitting as
9 chair of this board. Serving with me tonight are, to
10 my right, Lark Palermo, to my left, Christopher
11 Hussey.

12 The meeting will go in general order of the
13 presentation of the working groups and the
14 development team. The applicant will present what it
15 wants to present.

16 As I have always said in these meetings,
17 everything that is reported or spoken tonight will be
18 recorded and will be part of the public record
19 available to the public at some point in the future.
20 So whoever addresses the board tonight, I ask that
21 they approach the podium, speak into the microphone,
22 speak clearly and distinctly, and identify yourself
23 for the record.

24 So I don't think we have to do any more

1 administrative introduction, so I will call upon
2 Polly to tell us what is going on with the working
3 groups.

4 MS. SELKOE: Polly Selkoe, assistant
5 director of regulatory planning.

6 The working group met again, and what
7 we focused on was the large building and the fact
8 that they have relocated it more towards Boston,
9 eliminating some of the existing buildings around it
10 to give it more of a real setting. And we looked at
11 the -- Cliff Boehmer was there as well. He's our
12 peer reviewer -- design peer reviewer -- and he was
13 pleased with the progress that they're making looking
14 at different ways to articulate the building, because
15 it's a very long building and it really needs,
16 through architectural methods, to make it look more
17 broken up. And so we did meet with that, and the
18 development team is going to continue to work on
19 that, and we have another working group meeting
20 scheduled for the last week in June.

21 MR. ZUROFF: Thank you, Polly.

22 Mr. Levin, I see you're at the podium, so
23 we would love to hear what you have to say.

24 MR. LEVIN: Good evening, Chairman Zuroff,

1 board members, and planning staff. Marc Levin,
2 Chestnut Hill Realty.

3 So last week the board asked to take a look
4 at an overview of the site to see exactly how the new
5 40B fits in with the existing townhomes as well as
6 the impact related to ROSB.

7 So here we've got Hancock Village as it
8 exists today. You have all the townhouses, the two
9 garages, and then this is actually off the site but
10 same ownership -- or similar ownership. That's the
11 Village of Chestnut Hill Shopping Center, which is a
12 great amenity to the townhomes in the surrounding
13 neighborhood.

14 On the next slide here, you see the two
15 40Bs; one that has ROSB, which has the comprehensive
16 permit right here, and there is the Puddingstone as
17 it stands today.

18 One of the things that I'd like to point
19 out is that if you were to combine these two lots and
20 you were to measure the floor area of the two 40Bs
21 and add to it the floor area of the existing
22 townhomes, you would be at a .46 coverage. And it
23 is, as you know, a .5.

24 I'd also like to point out that what we've

1 done is that -- if you were to look at density --
2 allowed density -- if you were to combine the two
3 lots on either side of Independence, there's some
4 debate as to what the allowed density is. It's a
5 complicated, I guess, computation, but the planning
6 director, years ago, came up with a count of about
7 424. If that's -- we came up with a slightly higher
8 number, but regardless, we're at 369.

9 MR. ZUROFF: Are you talking about units?

10 MR. LEVIN: Units. I'm sorry. Additional
11 units would be allowed, 424 nominally, and this
12 represents 369.

13 MR. ZUROFF: That's combined?

14 MR. LEVIN: Yes. The two 40Bs combined.

15 So what you see here and what we've done
16 from a master planning perspective is we've
17 concentrated the housing, the additional units, in
18 two areas. And in doing so -- and then there's some
19 on the periphery. In doing so, we have been able to
20 preserve 28 of the 30 courtyards in Brookline. The
21 courtyards have been the subject of a lot of
22 conversation and opinion from a preservation
23 standpoint, historical, aesthetic, landscaping, site
24 planning, and that's driven much of our thoughts in

1 terms of wanting to preserve the character of this
2 asset -- this very valuable asset. The two areas
3 that -- where the courtyards are compromised somewhat
4 at one end are right here, and we'll be talking about
5 that later.

6 There's also been a lot of discussion about
7 the impact that this development might have on the
8 existing residents of Hancock Village. And I want to
9 point out that the average resident stays about two
10 and a quarter years and that those residents who want
11 to stay will be given ample notice. And as we've
12 done during our unit renovations, we've also given
13 them the opportunity, and we would give them the
14 opportunity, to relocate on the site. But in any
15 event, they would have plenty of time to be able to
16 decide that they might not want to live at Hancock
17 Village during construction.

18 Clearly, any new residents coming in would
19 know in advance that either the construction is going
20 to be taking place, or they see the buildings that
21 they might -- they would elect to live here knowing,
22 by looking out their window, that that building is
23 there, so they would have -- be making their choice
24 to live there next to the new construction. And if

1 they didn't, somebody else would. We're comfortable
2 with that.

3 And what's important is that we're not
4 going to do anything that's going to degrade this
5 asset. And we've been good stewards of it up until
6 now, and we expect to be far into the future.

7 A. So here's a breakdown of the -- I think you
8 had asked for the numbers, so this is it numerically.
9 The existing Hancock Village has 789 units. That's
10 west plus east is 789. And on the west side, we have
11 20 units that would be added as a result of ROSB.
12 You have 230, which is comprised of the 218 in the
13 apartment building and the 12 infill buildings.
14 You're losing 14 units in Brookline, and you're also
15 losing 8 units in Boston, for a net gain of 228 units
16 on the west side. The 141 on the east side
17 represents the apartment building, what we call
18 Asheville, of 109 units, and the remainder, the 32
19 units, are in those buildings in the S7. So here you
20 have the 141. So these are the net adds to the
21 existing inventory at Hancock Village.

22 Just quickly, these are the 20 units from
23 ROSB that would be getting added to the west side,
24 and these are the 141, 109, and 32 units that are --

1 would be added to the east side.

2 Okay. We were also asked about
3 connectivity to the rest of the site. And the blue
4 indicates the vehicular access, and the red
5 represents pedestrian. These units are clearly a bit
6 out on an island from a walkability standpoint,
7 although clearly they can -- you know, people can
8 walk around and they won't be restricted. But there
9 are no clear pathways convenient.

10 The connectivity has been improved
11 dramatically by moving the front of the building to
12 the south of the building as opposed to where it was
13 before in the north of the building because now you
14 have very easy access to the rest of the site both in
15 a vehicle and more particularly by walking. But I
16 want to talk about this a little more because of the
17 suggestion that this is less than desirable.

18 Polly mentioned that we were working with
19 the peer reviewer on architecture, and so we have
20 added -- we shifted the building modules around a bit
21 and we've created -- so the major concern was on the
22 north side of the building because, you know, the
23 south side had already had some articulation in it.
24 And what we've done is we've added some changes to

1 the facade -- real changes, as well as small
2 projections where there would be windows -- to give
3 the building less of a feeling of monotony.

4 The front has much greater opportunities
5 because it's where the entrance is going to be.
6 There would be areas of the interest. There's going
7 to be some amenity space here on the Boston side, as
8 we had mentioned.

9 So Mr. Boehmer was less concerned about the
10 front. He thought the front would be a much easier
11 task to address than the back. And what we're doing
12 now is looking at materials, as Polly mentioned, and
13 window fenestration, and roof cornice lines to come
14 up with something that looks like -- almost looks
15 like separate buildings.

16 We were asked last week what the dimensions
17 were. The overall length from the maximum points
18 from here to here is 557 feet. The maximum width
19 from here to here is 196.

20 Last week, Mark, you had asked -- you
21 pointed out that we were keeping 14 units, and how
22 did that affect the net change. The first slide that
23 I showed, the first numerical slide, is the summary,
24 and that's -- I'll take the opportunity to try to

1 explain in a different way to answer specifically
2 your question.

3 So in the -- we are creating 230 new
4 buildings, as I said -- new units. 218 in the big
5 building and 12 in the infill buildings. But we're
6 losing 14 units that were demolished, so that leaves
7 you with 216 units. Originally, we had 186 in the
8 large building, plus the 12 gives you 196. So the
9 difference between them is -- I'm sorry 198. 196
10 plus 12 is 198. So the difference is 18 more units
11 in Brookline between the two 40Bs. Okay? When you
12 look at the site as a whole, since we've lost 8 in
13 Boston, there's actually 10 new additional units on
14 the west side of Independence Drive. I hope that
15 helped.

16 We were asked last week what the rents
17 were. Here you have both the market rate and the
18 affordable rents for the one- -- average rents for
19 the one-, two-, three-, and four-bedroom units. 20
20 percent of the units will be affordable. And
21 notwithstanding what comments were made about losing
22 affordable units in the townhomes that are now going
23 to be outside the 40B project, bottom line is the
24 number of affordable units is going up from 45 to 46.

1 buildings.

2 So as I had said -- well, before -- so our
3 next steps are clearly to develop the architecture of
4 the building facades. We want to create another
5 drive-around video and plop in the new design so you
6 can see what it will look like from the Hancock
7 Village street pattern because it will not -- it's
8 still not visible from Independence Drive.

9 And if you'd like, we're more than happy to
10 conduct another site walk and stake out the
11 footprints of the two buildings, even walk into the
12 Hoar Sanctuary to see what you will or won't see.

13 And of course, we're going to present the
14 updated traffic and stormwater that correlates with
15 the new plan and let the peer reviewers and our guys
16 hash it out to resolution.

17 So as I have mentioned in previous hearings
18 as well as this evening, Cliff Boehmer pointed out --
19 and we see the thought behind -- changing how those
20 12 units are dealt with. And so what we've decided
21 to do is pursue a Gerry garage conversion into 36
22 units. And if and when we got the special permit for
23 that, we would agree -- or in advance agree -- to
24 eliminate -- and I left them on this plan just so

1 that you could reference them -- these 12 units.

2 So it sounds like a lot more units. Well,
3 it is more units, but it's not any more bedrooms.
4 The units in these 12 are all four-bedroom units, and
5 the Gerry building is a mixture of ones and twos.
6 I'll show you that in a second. So they're both 48
7 bedrooms. It's a net zero. And so what we've been
8 able -- and then we have a community building here as
9 well. Now, these two buildings are very similar to
10 the master plan that was voted on at town meeting
11 last November.

12 So what we're able to do is create this
13 boulevard of the center of this section of the site
14 which will give many advantages in terms of both
15 vehicle and pedestrian access and connectivity, as we
16 say, to the site.

17 What you do see here is an awful lot of
18 parking, admittedly. There's a lot of parking here;
19 210 spaces, in fact. That parking is required under
20 the zoning. The math is pretty simple. It's -- you
21 have two garages of about 80 spaces, and then you
22 have some parking behind -- I don't have that number
23 exactly -- right behind the existing Independence
24 garage -- although I could figure it out quickly.

1 Plus you need 72 -- 2 per unit -- for the Gerry
2 building. So you have 80, plus 72. If you subtract
3 that from 210, that's the amount of spaces behind the
4 Independence garage that would have to be replaced in
5 this plan.

6 As I mentioned, this would be done by
7 special permit, and it's design -- I believe it's
8 design review only. Obviously, we have plenty of FAR
9 and density to utilize, and we would be staying under
10 the dimensional requirements of 35 feet for height,
11 so on and so forth. So it would be design review.
12 And as a result of being over 25,000 feet, we'd have
13 to go through the D and T process, and we're more
14 than happy to do that.

15 In the meantime, I would just like to ask
16 Steve Schwartz to opine a bit on how this special
17 permit process relates to this 40B process that we're
18 in.

19 MR. ZUROFF: You're going to come back
20 because we have some questions for you.

21 MR. LEVIN: Okay.

22 MR. SCHWARTZ: Hi. I'm Steven Schwartz,
23 Goulston & Storrs, counsel for the applicant.

24 I just want to spend a minute sort of

1 describing what it is that we have in mind for the
2 combination of the special permit and this
3 comprehensive permit because it's a little bit
4 complicated. It's not, you know, your standard
5 operating procedure.

6 This plan, which you have before you, in
7 terms of the Gerry building and community center, we
8 have determined, could not be accomplished by a 40B
9 for reasons of the zoning of the existing building
10 and principally setbacks creating nonconformities
11 with the existing Hancock Village buildings. And
12 therefore, we're proposing to pursue this option,
13 which we agree is a better option from the point of
14 view of connectivity and overall design by a special
15 permit.

16 However, until we obtain that special
17 permit -- a nonappealable special permit and building
18 permits beyond that, we are not in a position to
19 modify our 40B plan to remove those three buildings
20 with the 12 units, the four-bedrooms.

21 And so what we would propose for your
22 consideration is that we would entertain a condition
23 in our comprehensive permit that would require us to
24 pursue the special permit. And were we to obtain

1 it -- nonappealable special permit and building
2 permits -- that the plan would be automatically
3 modified to eliminate those three buildings, those 12
4 units.

5 We've done this before in other contexts.
6 There was a project that I worked on in the Town of
7 Acton where we had a second-phase comprehensive
8 permit, but the applicant there agreed to pursue a
9 senior housing special permit, which was obtained.
10 And upon obtaining that special permit, the
11 comprehensive permit was automatically modified to
12 remove that second phase. So it's a comparable thing
13 here.

14 And I just want to emphasize that the plan,
15 from the 40B perspective that you have before you,
16 includes those three buildings, but we would
17 eliminate those if we're successful in obtaining the
18 special permit.

19 One of the complications, as the board may
20 know, is the NCD, because under special permit we
21 would be subject to the NCD. We would need a
22 certificate of appropriateness under the NCD bylaw in
23 order to pursue that.

24 Chestnut Hill, as the board may know, is

1 currently challenging the validity of the NCD in
2 court. Pending the resolution of that, if we're
3 successful in that, that issue would go away. Or
4 it's conceivable that the NCD would actually grant
5 the certificate of appropriateness. But that's one
6 of our concerns, and, frankly, if you put it in a
7 broader context, one of the reasons why we ended up
8 here before the zoning board on a 40B application,
9 originally for ROSB and here, again, was the NCD. So
10 that remains a concern. But we are committed to
11 pursuing this special permit for the community center
12 and the Gerry building, and hopefully we'll succeed.
13 And I'm happy to answer questions about that.

14 MR. ZUROFF: Mr. Schwartz, it's a fairly
15 complicated proposal that you're giving us. And
16 obviously the legality of it is of concern, not only
17 on your side, but on our side. I would encourage
18 you -- and as part of our process here, we're going
19 to request legal advice from our legal adviser, from
20 town counsel -- that you might want to submit to us
21 some sort of a brief or a memorandum of law that
22 gives us the power -- or supports us giving the power
23 to issue a condition in the 40B permit. This board
24 has no experience with it, and I don't think that any

1 of the sitting boards have done that. And as I said,
2 it's a complicated issue, so whatever input we can
3 get as to the legality of doing such a thing, I would
4 encourage you to present that. Because we really
5 can't act on it without legal authority.

6 MR. SCHWARTZ: I know it does sound
7 complicated, but I would think about it in this
8 context: Say you had a requirement to, you know,
9 modify a design or eliminate density, you know,
10 reduce density or something like that, which was
11 done, you know, pretty much with the agreement of the
12 applicant. It's not all that different. It's a
13 little bit different, but it's not all that different
14 from that, which is there would be a commitment on
15 the part of the applicant, you know, not to challenge
16 such a condition. And, frankly, I don't think
17 anybody else would have standing to challenge a
18 condition like that.

19 MR. ZUROFF: Well, perhaps. But, I mean,
20 you're talking about it in sort of a context of a
21 contract. And while that's certainly a consideration
22 here, we're going beyond that because we're going to
23 have to issue a decision which would have a condition
24 in it, and that becomes kind of a contract with the

1 town. It's not --

2 MR. SCHWARTZ: Well, we're happy to provide
3 a brief that can explain how it works.

4 MR. ZUROFF: And obviously we're going to
5 be seeking counsel on it as well.

6 Conceptually, I do understand what you're
7 proposing. From a legal standpoint, I don't have the
8 experience or any of the knowledge to address that.
9 But the board members may have some questions about
10 the legal part of it.

11 MS. PALERMO: I'm going to ask you to humor
12 me and explain why you have come to the conclusion
13 that you cannot incorporate your new design into the
14 40B permit application.

15 MR. SCHWARTZ: I'm going to call on Joe
16 Geller to answer that question.

17 MR. GELLER: So, you know, the whole issue
18 of how we created the lots for the 40B is in relation
19 to how -- you know, I think we've explained in the
20 past. Like, if you look at this lot line right here
21 and how weird that lot line is, that's all about the
22 setbacks that are required around the building to
23 make it no more nonconforming. So when you see this
24 building touching right up against that building,

1 there's no way we could keep this building from
2 becoming nonconforming without having that
3 building -- creating a lot to allow for that
4 building. So we wouldn't have the setbacks required.
5 So that's one example. Same example over here. And
6 then I think the parking and everything could work,
7 but it's the buildings themselves that don't really
8 meet those kind of setback requirements.

9 MS. PALERMO: And, again, I'm not as
10 familiar with the site, obviously, as you are. You
11 call that the "Gerry building." Is your plan to
12 renovate the existing Gerry building or --

13 MR. GELLER: No. So we'd be
14 demolishing the Gerry garage and the Independence
15 garage. Both garage buildings would be demolished,
16 and the new -- these would be new buildings
17 constructed. It's a new 36-unit apartment building,
18 and there's a community center.

19 MS. PALERMO: And is it impossible to
20 design a new building for each of the sites that
21 would not create a problem and put the setbacks that
22 are necessary to not put the rest of the site into
23 noncompliance?

24 MR. GELLER: Yeah. To meet the --

1 programmatically, to get the 36 units or to get the
2 community center to meet the program needs that we're
3 talking about, the size and scale of the buildings,
4 there's no way you could set them in there and not
5 impact the --

6 MS. PALERMO: Unless you change the
7 program.

8 MR. GELLER: Right.

9 MS. PALERMO: So you could,
10 hypothetically -- just hypothetically -- I'm trying
11 to understand this because --

12 MR. GELLER: I don't think -- like, here --
13 there's no way, actually, to put a building in here.
14 It would be a very tiny building because you've got
15 all these setback requirements here. Same thing
16 here. You've got setbacks here and setbacks here, so
17 the only thing you'd be able to do is put a small
18 building in here, so you end up with buildings that
19 don't really make any sense.

20 MS. PALERMO: Well, again, I don't know.
21 But it just seems to me that you're proposing 36
22 units in the Gerry building and that there might be a
23 possibility of designing a building that would fit on
24 that site and could be part of your 40B that has, for

1 example, 15 units or 20 units. And essentially
2 you're explaining that you would plan to eliminate
3 the 3 buildings that are part of that circle, and
4 they have 12 units.

5 And I'll explain to you what my concern is,
6 and this is one of the reasons I wanted these
7 numbers. And I appreciate you bringing them to us
8 tonight. They were very helpful for me to
9 understand.

10 And one of the issues that is within our
11 purview that I think is important for us to think
12 about is traffic. So by adding 36 but taking out 12,
13 I'm not sure that there's a net benefit to the town.
14 And they're not affordable, so it's not part of the
15 40B, so no percentage of those units would be
16 affordable.

17 MR. LEVIN: I'll make a few points in
18 response. First off, there will be more affordable
19 units as a result of doing it this way. 20 percent
20 of 12 is 2.4, 10 percent of 36 is 3.6, plus another
21 5 percent would be 1.8. It's at a higher
22 affordability, granted, but you have more affordable
23 units in the Gerry building than you would have in
24 the 12 unit --

1 MS. PALERMO: I misunderstood. I thought
2 the Gerry building would be all market.

3 MR. LEVIN: No. We would be obliged to
4 provide inclusionary zoning in that building.

5 MS. PALERMO: Okay.

6 MS. SELKOE: We have inclusionary zoning
7 even for market rate.

8 MR. ZUROFF: And you would also be required
9 to -- a new curb cut; correct.

10 MR. LEVIN: No. Because -- well, it would
11 probably -- it might be moved.

12 MR. ZUROFF: The garage has an entrance
13 now.

14 MR. LEVIN: Yes. In both cases, there are
15 existing curb cuts, but they would be relocated --
16 shifted.

17 MR. ZUROFF: And so that would be a whole
18 different traffic pattern, perhaps.

19 MR. LEVIN: Well, indeed. So let me just
20 briefly discuss traffic. And that is, as I've
21 mentioned a number of times, we have a master plan
22 that we, in fact, did the traffic study for. And,
23 you know, it's a formality. We have to go through it
24 in the 40B process. We're more than happy to. The

1 the town get all of those units as credit for the
2 affordable housing inventory if it's not part of the
3 40B? If it's just the 10 percent of the units that
4 are --

5 MS. SELKOE: Well, the inclusionary is 15
6 percent.

7 MS. PALERMO: 15 percent, excuse me.

8 But --

9 MS. SELKOE: No. The answer is --

10 MS. PALERMO: It would not?

11 MS. SELKOE: It would not.

12 MS. PALERMO: Okay.

13 MR. LEVIN: Yes. The count, indeed, would
14 go down from 12 to 5 or 6.

15 So I neglected to show the best slide. Oh,
16 here's the breakdown of ones and twos giving you 48
17 units.

18 So this is the connectivity that can be
19 achieved by creating this boulevard down the center
20 of the site. And you can just see the public
21 pathways -- walkable pathways as well as the
22 vehicular -- is vastly improved. You know, the
23 sidewalks along the drive aisle.

24 MR. ZUROFF: So the red dots would be

1 pathways?

2 MR. LEVIN: Yes.

3 MR. ZUROFF: Paved?

4 MR. LEVIN: Yes, that's correct.

5 MR. ZUROFF: Okay. Do you have anything
6 else?

7 MR. LEVIN: I'd just like to say that as
8 far as this special permit process goes, we will have
9 a neighborhood meeting, as any special permit process
10 would have, and we really just think that this is --
11 would be better for Hancock Village. We just think
12 this is a better plan for Hancock Village.

13 MR. HUSSEY: I do have one question.
14 You're demolishing three buildings in here, I gather.

15 MR. LEVIN: No. We're just not building.

16 MR. HUSSEY: Oh, you're not building.

17 Gotcha.

18 And this is a new building?

19 MR. LEVIN: That's just a recycle center.

20 MR. HUSSEY: Okay.

21 MR. ZUROFF: And obviously, while it's not
22 part of the 40B application, you are going to be
23 submitting special permit plans on the 40A parts of
24 this development.

1 MR. LEVIN: Absolutely.

2 MR. ZUROFF: And you'll be doing that when?

3 MR. LEVIN: By the end of June.

4 MR. GELLER: So we have to apply for a
5 denial letter. We have to have a public meeting and
6 apply for a denial letter, so we'll probably be doing
7 that at the end of June. And then as soon as we get
8 the denial letter, we'll file a special permit.

9 MR. ZUROFF: So it goes without saying that
10 that may cause further delay in this proceeding.

11 MR. LEVIN: No.

12 MR. ZUROFF: You want to go concurrently?

13 MR. LEVIN: Not only do we want them to go
14 concurrently, but I just want to expand a little on
15 what Steve said based on my limited experience with
16 ROSB.

17 In ROSB there were conditions in terms
18 of -- well, I'll -- we had to build the streetscape,
19 or at least fund it, and there were a number of
20 things that we needed to fund, as an example. In
21 that case, it could have been a condition, had it
22 been practical. And it wasn't, so it wasn't
23 conditioned this way. But it could have been
24 conditioned that we couldn't have done -- we can't do

1 the development until the streetscape was done. It
2 could have been done that way. It wasn't, for
3 practical reasons, but it could have been, and it was
4 discussed.

5 So similarly here, it could be that we
6 would have a comprehensive permit that would not
7 allow us to build the 12 units until we got -- until
8 and if we received the special permit for the Gerry
9 and community center.

10 So it sounds -- like Steve said, it sounds
11 complicated, but the condition can be written in such
12 a way that we can't build those 12 units until which
13 time as we've, you know, made best efforts or
14 whatever it would be to pursue the special permits on
15 the Gerry and community center.

16 MR. ZUROFF: I understand what you're
17 saying. I would suggest that part of your
18 presentation would be to provide us with the kind of
19 language that you're asking us to approve, and we
20 could get opinions on that as well.

21 MR. LEVIN: Sure.

22 MS. SELKOE: Could we ask Mr. Schwartz what
23 he meant by a "nonappealable special permit"?

24 MR. SCHWARTZ: The special permit, like any

1 40A permit, would have an appeal period, a 20-day
2 appeal period. And if there were appeals taken by
3 abutters, then, you know, that would not -- that
4 would not be considered an obtained special permit
5 that would automatically eliminate those three
6 buildings. That's not to say that we wouldn't defend
7 the special permit. It just would not mean that
8 those three buildings would, you know, come off the
9 plan, so to speak. Does that answer the question?

10 MS. SELKOE: Yes.

11 MR. ZUROFF: All right. Anything else,
12 Mr. Levin?

13 MR. LEVIN: No. Unless you have any
14 questions.

15 MR. ZUROFF: At this point, I think we're
16 all kind of blown away by the scope and the change in
17 the proposal, and I think we need to see what you're
18 going to submit before we actually start talking
19 about it.

20 And I would suggest that we not do anything
21 further on this particular day until we have
22 something actually to look at, not only from the
23 planning and plan part of this, but the proposed
24 language and the memorandum that I've requested so

1 that we can get opinions from town counsel and
2 outside counsel.

3 MR. LEVIN: You know, in thinking about
4 this, we would see great advantage from the process
5 if, in fact, that special permit came before this
6 very panel so that you, in fact, know everything --
7 all three of you know everything that's in that
8 special permit as a way to relate it to the 40B.

9 MR. ZUROFF: So you're drafting this panel
10 to sit on the 40A? Is that it?

11 MR. LEVIN: I would love to, yes.

12 MR. ZUROFF: Well, that's up to the
13 planning department and our administration, but I
14 think that might be appropriate, so I'll note the
15 request, and everybody here will note the request.

16 MR. LEVIN: Great.

17 MR. ZUROFF: So given the fact that this is
18 a completely different kind of proposal, I think that
19 we need to review what is being proposed in more
20 formal form and that we really shouldn't be acting
21 any further on this proposal until we have something
22 concrete in front of us. And obviously, this
23 proposal will again be submitted to the working
24 groups, to the peer reviewers when it's more

1 concrete, obviously.

2 So that being said, I don't know that we --
3 Polly, do you have any other organizational matters?

4 MS. SELKOE: No. Just to continue the
5 hearing for July.

6 MR. ZUROFF: All right. I believe we have
7 a date that we're all available of July 11th, and
8 therefore, I think we're going to continue this
9 meeting until July 11th and adjourn for this evening.

10 Public comment will be addressed when we
11 have something to actually see. And as far as the
12 questions that have been submitted, they will be
13 addressed by both the developer and the appropriate
14 authorities.

15 MS. SCHARF: I would like to ask a couple
16 of questions, though, that are not specifically
17 related to -- Irene Scharf, Precinct 16, town meeting
18 member and abutter.

19 I would appreciate asking questions that
20 preceded this presentation and that refer to the
21 entire project. So I --

22 MR. ZUROFF: At this point, I will suggest
23 to you that you submit your questions in writing
24 because this board doesn't have answers. I know

1 you're going to ask us to do certain things. We
2 don't really have enough to act on at the moment.

3 MS. SCHARF: Actually, why don't you let me
4 make one or two comments, and then I'm happy to sit
5 down. I have not taken up much of this board's time
6 at all. One question that I have, and then one
7 comment.

8 The question is -- the working groups are
9 not available to the public. I'd like to learn what
10 authority the town employees who are participating in
11 the working groups have vis-a-vis you all on the ZBA?

12 MS. STEINFELD: Alison Steinfeld, planning
13 director.

14 The working group has no authority. We
15 simply work with the developer based on the charge
16 given to the developer by the ZBA, and we report back
17 to the ZBA. So we have no authority and exercise no
18 authority.

19 MS. SCHARF: Thank you.

20 So my comment is this: I've heard from --
21 I'm kind of in a representative capacity. There are
22 a lot of people who have questions who don't want to
23 stand up here, so I'm doing that on behalf of them.

24 And one of the comments that has been made

1 is while the peer reviewer did a wonderful job of
2 analyzing the project, the land, the buildings, the
3 look of the buildings, it's an apartment complex
4 that's off the road. Once tenants want to move
5 there -- if they don't like how it looks, as Chestnut
6 Hill Realty said, they won't move there.

7 The focus on the building, the
8 transparency, making it look like two buildings
9 rather than one, and all of that seems largely
10 besides the point of -- the point being the increase
11 in population, therefore the traffic, the increase in
12 bedrooms in Precinct 16, the increase in units in
13 Precinct 16.

14 And I -- it just seems that a lot of that
15 wonderful design talk is kind of besides the point.
16 It's ignoring the real issue of the increase in bulk.
17 And I'm not really talking about how big the
18 buildings are. The bulk to Precinct 16 -- which I'm
19 not sure whether you're aware of the numbers. I have
20 received the numbers as of last -- you know, it's
21 like 2,300 hundred people or something. The increase
22 that this will provide is -- was, prior to tonight,
23 close to or around or more than 900 to 1,000 people,
24 a percentage increase of 40 percent.

1 MR. ZUROFF: All right, so --

2 MR. HUSSEY: I have one --

3 MR. ZUROFF: Of course.

4 MR. HUSSEY: Only a procedure question.

5 Marc, I think it would be useful if on
6 the -- the tabulations that you have, if we could
7 have hard copies of that information, it would be
8 useful, either just before the meeting or as a
9 handout.

10 MS. SELKOE: I was also going to ask them
11 to send it to me electronically. We will post it on
12 our town website, and then I'll be able to copy it.

13 MR. ZUROFF: Yeah. We should have all of
14 that information that you posted and more.

15 All right. We will adjourn this meeting
16 and continue it to July 11th. At that point,
17 hopefully, we'll have a lot more to consider, and
18 we'll be discussing much more of the issues.

19 Thank you all for coming.

20 (Proceedings adjourned at 7:57 p.m.)

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1 I, Kristen C. Krakofsky, court reporter and
2 notary public in and for the Commonwealth of
3 Massachusetts, certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth and
6 that the foregoing is a true and correct transcript
7 of my shorthand notes so taken.

8 I further certify that I am not a relative
9 or employee of any of the parties, nor am I
10 financially interested in the action.

11 I declare under penalty of perjury that the
12 foregoing is true and correct.

13 Dated this 18th day of June, 2018.

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Kristen Krakofsky, Notary Public
23 My commission expires October 25, 2024.

24

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