

From: scott@sgradstonelaw.com [<mailto:scott@sgradstonelaw.com>]

Sent: Sunday, September 16, 2018 2:03 PM

To: Polly Selkoe

Cc: sg@sgradstonelaw.com

Subject: comments for Monday HV ZBA hearing

Polly, would you please share these comments with the members of the Board before Monday's hearing?

I am writing to follow up on the neighborhood petition to address a couple of points that the Chair made at the last hearing. I appreciate their indulgence.

First, I wish to point out that when the HAB eliminated one of the proposed buildings in the Princeton Development case, there was no abutting neighborhood. The resource being protected by the resulting vegetated buffer (after the building in question was eliminated) was the Minuteman bike trail. It was accepted that maintaining the rural feeling of that bike trail as much as possible was a sufficient local concern that it justified removing the building even though it rendered the project uneconomic. In our case, we have asked for the Sherman building to be made lower and less long. We used the ROSB building as an example of a smaller building that was still economically sufficient for the developer under the last (ultimately unsuccessful) Town Meeting grand bargain, which had proposed to eliminate the buildings in the s7 buffer. The justification for this reduction is two-fold:

(1) as the Chair recognized, it is extremely close to the Hoar sanctuary, a Town resource at least as valuable as the bike trail in the Princeton Development case. A reduction in the height of the Sherman building and pulling it away from the sanctuary will reduce the visual (and shadow?) impact on the sanctuary.

(2) while the developer owns the townhouses, they are still filled with renters who have rights that are separate from the developer. As a Town Meeting member representative from this Precinct, they are my constituents. The impact of a very large building will be great as it is totally out of scale with the surrounding townhouses. A reduction in the size of the building will lessen that impact. As you correctly consider the elimination of the infill buildings in order to facilitate walkability and traffic flow, you clearly have in mind not just the residents of the 40B project, but also the residents of the abutting townhouses. So too should their experience be taken in to account when judging the appropriateness of this size building so close to the much smaller scale townhouses.

Second, the Board has been asked to consider a condition that, if the developer is able to get their 40A proposal for the Gerry building and community center approved, that the Board would approve a change to the 40B lot, which would also eliminate the proposed three infill buildings. If the Board is willing to consider this change, triggered by activity on the 40A lot, then why not add that the planned buildings in the s7 greenbelt, permitted by the prior comprehensive permit, be eliminated to make up for the loss of green space (due to additional road and parking) that are part of the 40A proposal? There is no uneconomical argument to be made since this condition would only be exercised at the request of the developer in order to facilitate a 40A proposal. This condition is voluntary for both parties – so let's make it a better condition for both the residents of Hancock Village and the abutters!

Related to the second point, it is curious that the developer is ok using the 40A lot in tandem with their 40B development ,to facilitate the 40A proposal, but still object to any condition that they do not offer themselves that impacts the 40A lot. They have offered to build a large playground area on the 40A lot as a mitigation for the large building on the 40A lot or the other 40B lot. That is what we are requesting when we ask that the s7 buildings be considered in the same context. Elimination of these s7 buildings is just another off-site mitigation of the negative effects of a large 40B Sherman building. Perhaps the developer can agree to one mitigation over the other, but I think both shrinking the Sherman building AND eliminating the s7 buildings from the ROSB development is appropriate.

Thank you

Scott. C. Gladstone
Business Litigation and Construction Law
822 Boylston Street, #300
Chestnut Hill, MA 02467
P: 617-730-4525 x121
F: 617-730-4524
www.sgladstonelaw.com