

TOWN OF LUNENBURG
Office of the Planning Board

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Adam R. Burney
Land Use Director

Minutes
Public Hearing
274 Prospect Street (cont'd)
March 13, 2017

Meeting Posted: Yes

Place: Town Hall, 17 Main Street, Lunenburg, MA

Time: 6:38 PM

Present: Matthew Allison, Damon McQuaid, Gregory Bittner, Kenneth Chenis, David Prokowiew, Adam R. Burney

Also Present: Joel Bard, Town Counsel

The Hearing was to hear and discuss applications for special permit under Section 4.12. Lake Whalom Overlay District and site plan approval under Section 8.4. of the Protective Bylaw of the Town of Lunenburg for a 22-unit townhouse development at 274 Prospect Street, Map 98, Parcel 10.

The Applicant was not represented. A Request to Withdraw Without Prejudice was presented to the Board at the February 27, 2017 Hearing continuation.

A brief summarization of the project's history was given. The Building Commissioner had previously submitted a letter to the Board noting that the Board had purview to approve the appropriate density for the site. At the request of the Applicant, the Building Commissioner issued a subsequent letter stating eight (8) units per acre were applicable to 274 Prospect Street. As a result of that letter, Board consensus was to petition August 2016 Special Town Meeting to remove the Lake Whalom Overlay District; the Article did not pass. Following STM, Town Counsel submitted an opinion letter to the Planning Board refuting the opinion of the Building Commissioner and stated he did not feel the proposed site qualified for application under the LWOD.

Before approving the Applicant's request for Withdrawal Without Prejudice, the Board was seeking Town Counsel's opinion that the Applicant is not eligible under the LWOD. Town Counsel opined there are no ten (10) acres parcels left in the LWOD; the Applicant is not eligible for a waiver as they don't have ten (10) acres. He went on to note that ultimately it is up to the Board to interpret the LWOD Bylaw. The Board inquired as to what action should be taken if the Applicant reapplies. Town Counsel responded that the Board should accept and act on the application to avoid the risk of a constructive grant. During the hearing process, the Board could take a position and at that time deny the application as not qualifying under a special permit.

Town Counsel noted that if the Board remains silent, it is deemed to be With Prejudice; then the Applicant will be under a two-year ban from bringing the same project back. If an application is submitted within those two years, it has to be materially different. If the Board accepts Withdrawal Without Prejudice, the Applicant can reapply at any time.

Motion, D. McQuaid, to accept the Withdrawal Without Prejudice, Second, K. Chenis, all aye.

Hearing closed 7:00 PM.