



Charles C. Kokoros  
Mayor

## Department of Planning & Community Development Zoning Board of Appeals

1 JFK Memorial Drive  
Braintree, MA  
www.braintreema.gov

### Zoning Board of Appeals (ZBA) Meeting Minutes February 10, 2020

APPROVED

**IN ATTENDANCE:** Stephen Karll, Chair  
Michael Ford, Member  
Richard McDonough, Member  
Gary Walker, Associate

**ALSO PRESENT:** Melissa SantucciRozzi  
Assistant Director-Planning & Community Development  
Christine Stickney, Director-Planning & Community Development  
Connor Murphy, Zoning Planner  
Attorney Carolyn Murray (KP Law)

#### CONTINUED PUBLIC HEARINGS

**Comprehensive Permit Application (Chapter 40B) that includes an Approval Not Required Subdivision Plan** from 383 Washington Street LLC. The Applicant is proposing to construct a 70-Unit Multi-Family Residential (Rental) "*Parkside Apartments*" building along with associated drainage, utility, parking, access, landscaping and lighting improvements on a proposed lot of 93,866 Square Feet. The properties at 383 Washington Street, Storrs Avenue and the way known as "Alves Avenue" are all Zoned General Business within the Village Overlay District and are identified on Assessor's Plan 2028 as Plot 31 and 32-A.

**Comprehensive Permit Application (Chapter 40B) that includes an Approval Not Required Subdivision Plan** from 383 Washington Street LLC. The Applicant is proposing to construct eight (8) Townhouse Style Residential Units (Ownership) "*Parkside Condominiums*" in two (2) buildings along with associated drainage, utility, parking, access, landscaping and lighting improvements on a proposed lot of 20,327 Square Feet. The properties at 383 Washington Street, Storrs Avenue and the way known as "Alves Avenue" are all Zoned General Business within the Village Overlay District and are identified on Assessor's Plan 2028 as Plot 31 and 32-A.

Chairman Karll calls the meeting to order at 7:00 PM and explains that all testimony is done from the Applicant and the public. The Hearings for both the 70-Unit Multi-Family (Rental) Parkside Apartments and the eight (8) Townhouse Style Residential Units (Ownership) Parkside Condominiums have been closed, and the Zoning Board is here to make a decision.

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Chairman Karll introduces the participants on the Town's side: staff (Melissa SantucciRozzi, Connor Murphy, Christine Stickney); Zoning Board Members (Gary Walker, Tim Burke, Michael Ford and Richard McDonough); and legal representation (Carolyn Murray).

Chairman Karll opens the meeting to discussion related to this project by Zoning Board Members. He explains that there are two petitions; one is an eight (8) unit condominium, and one is a 70-unit apartment rental under Chapter 40B of the Massachusetts General Laws.

Member Ford opens the discussion by stating it is no secret that the so-called 40B projects, in this case Holland Construction, have significant leeway and leverage with regards to density and relief in exchange for affordable units. So long as the developer puts forward a decent, workable plan, cities and towns do not have much recourse in opposing these projects. In the first public hearing, for which Member Ford was not in attendance but he did watch a DVD according to the Mullin Rule, a speaker for the Applicant stated they were looking for a good and fair hearing. Member Ford believes the Applicant's idea of good and fair hearing was to present that plan, go through the motions of listening to the public questions and this Board's concerns and then await the rubber stamp of approval. It is Member Ford's opinion that this Applicant did not put forward an decent and workable plan by any stretch of the imagination in the case of the 70-unit apartment building.

This Board, the Town's fire expert and the neighbors of this proposed project raised some very valid concerns regarding public safety, first responder and fire access. We are concerned about the safety of our firefighters and the safety of the potential tenants of this building. Member Ford mentions that Deputy Fire Chief Sawtelle, a professional firefighter, gave compelling testimony relying on his years of schooling, training and practical on-the-job experience to voice these concerns and try to give direction towards a workable plan. The Applicant countered with their own "so-called" expert – one with no real-life firefighting experience, who told us what the book on Fire Code Safety told us what to do is okay. Member Ford reads Massachusetts General Law frequently as it pertains to zoning. It gives him direction and a point of reference, but it doesn't make him a lawyer or an expert on law. So, for someone to tell him that a book says it is okay for a firefighter to carry their equipment "x" number of feet and raise a ladder to a 40-foot building with a 9-foot setback because a book says so, Member Ford will take the professional firefighter's word that it is not okay. The potential injury or loss of life of one person is not worth any profit, especially if we can avoid the tragedy before it occurs. To not have sufficient access to two sides of a building is unacceptable. The plans presented to this Board showing fire apparatus access and turning radii look great, and in a perfect world might actually work. In an actual emergency situation, when the first truck pulls into a property and a car is parked illegally or there are snow piles or other obstacles in the way or general chaos is all around because not all people handle stressful situations in a calm manner, that plan is not worth the paper it is printed on. Any disruptions to the parking circulation plan during an emergency will only exacerbate the fire safety problems, painstakingly discussed by this Board only to be offhandedly dismissed by the applicant.

Of the numerous valid concerns raised by the residents, one stands out to Member Ford. While it is true that the Town of Braintree has no bylaw pertaining to recreation areas, Member Ford believes the lack of such space, when we know families will be looking to move into these two and three-bedroom units, and rightly so. Kids and adults need a space to get outside, breathe some fresh air, to speak with their neighbors while flipping a burger on the grill and play, but that cannot happen on a slopped berm, 10-feet wide. I think this is a valid, local concern, speaks to our community values and is a quality-of-life issue.

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Finally, while the proposal for eight (8) townhouses does not trigger the same safety concerns as the apartment building, it is Member Ford's contention that the Town of Braintree will ultimately prevail in court with the assertion that we have reached our 1.5% general land area minimum, as it pertains to affordable housing stock. For these reasons, Member Ford will be voting to deny both permits.

Member McDonough doesn't want to be repetitive or redundant, but he 100% concurs with Member Ford's statement and agrees with everything Member Ford said.

Chairman Karll truly agrees with what Member Ford said, especially pertaining to the 70-unit rental apartments. Chairman Karll expresses that the Holland Construction Company does have a very good reputation when it comes to building buildings; however, this particular plan, in Chairman Karll's opinion, does not conform, especially for public safety. Chairman Karll wants to thank Deputy Chief Sawtelle for his testimony regarding his concern for his firefighters and for the people that may be renting these apartments. Chairman Karll recognizes that Deputy Chief Sawtelle put a lot of work into studying this proposal and providing comments. Chairman Karll states that the Zoning Board listened and read the comments.

Member Walker, recognizes that he is not a voting member on these Petitions, but he agrees with everything that Member Ford said.

Chairman Karll acknowledges that discussion is concluded and asks if someone would like to make a motion.

Member Ford **MOTION** to approve the Approval Not Required (ANR) Plan; seconded by Member McDonough; unanimously voted 3:0:0 (voting: Karll, Ford, McDonough).

Member Ford **MOTION** that the Zoning Board finds that the Parkside Apartments, Comprehensive Permit, 70-unit rental apartment project, as proposed, is not consistent with local needs, as defined by 760 CMR 56.02, because the size of the site, density and location of the building on the site does not provide adequate access for fire apparatus or operational set-up for fire fighters and rescue personnel. The project does not provide adequate outdoor areas for the intended residents. There are no conditions that this Board can impose that would address these local concerns. 1.5% of the Town's general land area is dedicated to affordable housing, qualifying the Town for Safe Harbor. Therefore, Member Ford **MOVES TO DENY** this Parkside Apartments Comprehensive Permit Application; seconded by Member McDonough; unanimously voted 3:0:0 (voting: Karll, Ford, McDonough).

Member Ford **MOTION** that the Zoning Board finds that the Parkside Condominiums, Comprehensive Permit, 8-unit townhouse condominium project, as proposed, is not consistent with local needs, as defined by 760 CMR 56.02, because the project does not provide sufficient outdoor recreational areas for the intended residents. There are no conditions that this Board can impose that would address these local concerns. 1.5% of the Town's general land area is dedicated to affordable housing, qualifying the Town for Safe Harbor. Therefore, Member Ford **MOVES TO DENY** this Parkside Condominiums Comprehensive Permit Application; seconded by Member McDonough; unanimously voted 3:0:0 (voting: Karll, Ford, McDonough).

Assistant Director SantucciRozzi explains that both she and Attorney Carolyn Murray have been working diligently on these draft decisions, and while the content won't change, they will be fine-tuning language and proof reading to correct grammatical errors. However, the content and findings as stated in these decisions will remain, but they will be making some minor edits.

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Chairman Karll confirms that there are no further questions from any members of the Zoning Board.

Member Ford **MOTION** to adjourn the meeting; seconded by Member McDonough; unanimously voted 3:0:0 (voting: Karll, Ford, McDonough).

The Board adjourned the meeting at 7:17 PM.

Respectfully submitted,

Louise Quinlan  
Planning & Community Development