



TOWN OF AVON  
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TOWN CLERK

## **ZONING BOARD OF APPEALS**

TOWN OFFICES/BUCKLEY CENTER  
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### **PUBLIC HEARING MINUTES – August 5, 2020**

Case # 19-3 JOANNA HILLS ESTATES, LLC continued from March 10, 2020

Mr. Charles Comeau, member announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Subchapter 20 and the Governor's March 23, 2020 Order imposing limitations on the number of people that may gather in one place, this hearing of the Zoning Board of Appeals will be conducted via remote participation. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings as provided for in the Order. Chairman Comeau reminded the viewing audience that persons who would like to view this meeting while in progress may do so by joining the Zoom link for the videoconference in session.

The Public Hearing is the result of the Petition of Joanna Hills Estates, LLC., at the property located off Joanna Road, and known as Assessors Map C, Block 3, Plot 15, Avon, Massachusetts and is continued from March 10, 2020.

The following were present:

Appeals Board Members – Gerald Picardi, Charles Comeau, Edward Mekjian, Carl Walker, Kevin Foster; Special Counsel, Brian Winner; Special Counsel, Joseph Lalli, Town Counsel; Tom Houston, Professional Services Corp.

Visitor's - Building Commissioner, Robert Borden; Fire Chief Spurr, DPW Director, William Fitzgerald; Brian Giovanoni of GIO Group, Brian Dunn of MBL Land Development, Paul Cusson of Delphic Associates, Rami Itani of Joanna Hills LLC, Muhammad Itani of Stonebridge Homes, Inc., Tony Esposito, Tracey Duarte, Pat Matthews, Dashaya Toney, Justin Williams; Tom Killberg, 29 Joanna Road

## **Draft Permit Discussion**

Mr. Charles Comeau, member called the meeting to order at 7:35 p.m. with all members present. Each Board member acknowledged their presence at the meeting by responding in the affirmative during the roll call.

Mr. Comeau also informed the public that the proposed site plan has been revised.

Brian Winner, Special Counsel updated the board regarding the draft decision. New plans, reports, and a revised list of waivers were submitted at the last in person meeting on March 10, 2020. There are still some open issues that need to be discussed at the public hearing. Tom Houston reviewed and evaluated the site plan proposal that was submitted to the board. Mr. Houston discussed some open issues that need to be taken care of prior to finalizing the plan. Some open issues regarding testing, unexplained test pits, there needs to be three additional test pits for Basin A. The three remaining test pits need to be excavated. There are some detailed engineering items that Brian Dunn has gone through and will revise the plans to incorporate in part two of our final report. Condition of approval, the applicant would submit an endorsement set, prior to the board signing the final set of plans; the applicant will submit this endorsement with all of the corrections. The final set of plans with all of the changes will be due to the Board of Appeals at the next meeting.

Paul Cusson of Delphic Associates thanked everyone for their hard work. Mr. Cusson reviewed some changes/updates regarding the draft decision. The following were discussed:

Paragraph 39G: water connection fees and building permit fees for the affordable units. He would like them to be put back in for consideration to be waived.

Page 12, paragraph 41: He needs clarification regarding the deed rider that makes the units stay affordable. Does the board want a copy of the deed on each of the affordable units? Mr. Comeau and the Board of Assessors will need a copy of each deed.

Paragraph 45: clarification is needed regarding condo fees. The discount rate no longer applies. It needs to be reworked.

Page 15, paragraph 50: They would like the following added to line 6 right after and related landscaping "weather permitting".

Paragraph 52: How is the amount of the bond determined? The wording needs to be changed from ten to twenty.

Page 17, # 59: Applicant intent that the roadway will be accepted by the town. They want to strike where it talks about snowplowing. He would like it rewritten. Make reference to the right of way area as defined by the roadway layout plan.

Page 19, #67: They would like the 30 days to change to 45 days.



Attachments: Architectural plans need to be attached to the site development plans and not an attachment to this decision. Omit Exhibit B from this decision; instead include it with Brian Dunn's plans.

Robert Borden, Building Inspector clarified that he does not have the authority to waive the permit fees for the affordable units. Mr. Borden asked if there is any agreement of the developer's responsibility to pay for or finance third party review or inspection of the project regarding the building plan review due to the size of the project. Mohammed Itani of Stonebridge Homes said he will be more than happy to hire a third party to do the inspections. Mr. Borden wants to protect your buyers, you and the town.

Brian Dunn of MBL Land Development looked over the waiver request and has a few minor changes and additions:

Reference Exhibit A –add “waiver list to the document”

Paragraph 5 – The board grants waivers from local requirements (add in The Board of Health regulations)

Page 2, section 7.5 – Special Permit application for multi-family homes, (add in waive this requirement in its entirety)

Page 2, Maximum building coverage: remove varies per lot and maximum 35% requirement. (add as shown on the plans)

Page 3, Reserve strips and re-subdivision of land (lot lay out plan), they want retain the right to come back and change the lot line.

Page 5, Conservation Commission Rules and Regulations. They are asking for waiver on this process regarding the DEP file number.

Page 6, Bond and covenant, they want to make sure they stay with the ZBA permit granting authority and has jurisdiction over setting the bond amount and looking over the covenant.

Page 6, They want to stay with the ZBA and not the Selectmen for the street opening and restoration permits that are required on the regular street, which is a non county road.

Page 7, Board of Health regulations: They are asking for relief of all of the local Board of Health rules and regulations for the Town of Avon. They want the MAS. DEP state regulations for title 5 to be the governing rules for installing the septic systems. Mr. Picardi stated in a project that size, this would be the protocol. The Board of Health is fine with that. The Board of Health will be doing the approval of each septic system.

Page 10, they agreed with removing the waiver on materials. Fees associated with the water lines. Mr. Fitzgerald was not aware of the request for waiver. He will come back to the Board with the fees associated with the water lines.

Mr. Comeau would like the members of the public to know that there was an extensive list of waivers that were removed during the working meeting.

### **Comments, Open Discussion, Questions and Answers**

Ed Mekjian is ok with the waivers with the exception of the building permit and water connection waivers for the affordable units. The affordable units have a deed restriction that will cost the town a lot of money for years to come. We can only collect half the taxes because they can only be assessed for half of the amount. He doesn't agree with waiving the fees. Mr. Mekjian does not have an issue with the change of plans if they have to move the foundation a few feet, as long as the number of units or bedrooms does not change. Mr. Comeau and Mr. Picardi are in agreement.

Tom Killberg, 29 Joanna Road asked questions regarding where the affordable units will be located. Mr. Brian Dunn answered his questions regarding this. Mr. Muhammad Itani stated that on page 3 of the decision, it states two single family homes, 5 duplex units and 12 condo units. Mr. Cusson stated they have to be approved by Mass housing. Mr. Killberg asked about the water mains. Mr. Comeau stated there will be a new water main installed that Joanna Road residents will be tied into. The home owners will have to contact the gas company for them to connect your house when the gas line is installed. The power company will have to work out where the transformers will be placed. Mr. Killberg asked where the side walk will go. Mr. Comeau explained how that is determined. It will not be on Mr. Killberg's property.

Mr. Cusson and Mr. Dunn would like to finalize the decision.

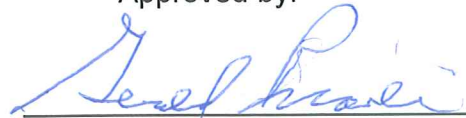
Mr. Brian Winner, Town Council clarified the options of closing the Public Hearing with the Board members.

A motion was made by Kevin Foster to continue the Public Hearing on Joanna Hills Estates project to August 18, 2020 at 7:00 pm, seconded by Gerald Picardi. A roll call was done. Edward Mekjian voted aye, Gerald Picardi voted aye, Carl Walker voted aye, Kevin Foster voted aye, Charles Comeau voted aye. The motion carries.

Approved by:

  
Charles P. Comeau, Member

Approved by:

  
Gerald Picardi, Clerk

**List of Documents:**

1. August 5, 2020 Meeting Agenda
2. Updated Proposed Site Plan
3. Exhibit A Waiver List
4. Comprehensive Permit